

TITLE XII

GENERAL CIVIL

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CHAPTER 1. CIVIL ACTIONS**Section 12-1-1. Jurisdiction.**

The civil jurisdiction of the Pueblo of Laguna Court shall be as follows:

- A. *Jurisdiction over the person.* The jurisdiction of the court shall extend to all cases covered by subsection 12-1-1B wherein the defendant is an Indian residing on the Laguna Indian Reservation, provided that if the plaintiff is a non-Indian, he must give written consent to be subject to the jurisdiction of the Court and be bound by any judgment rendered by the court.
- B. *Jurisdiction over the subject matter.* The Pueblo of Laguna Court shall have jurisdiction in all domestic relations cases and probate cases set forth in this Code and all other civil cases wherein the transaction, act or event which is the subject of the case occurred within the exterior boundaries of the Laguna Indian Reservation.

Section 12-1-2. Complaints.

A. The civil suit shall be commenced by the filing of a complaint by the party bringing suit with the Clerk of the Court. The complaint shall state the nature of the relief for which the party filed suit, and shall also state the name and address of the defendant. Upon receipt of the complaint, the Clerk of the Court shall issue a summons on the reverse side of said complaint, addressed to the defendant requiring him to appear before the court within twenty (20) days, or such shorter period as may be necessary in a particular case to further the ends of justice, from the date of service on defendant of summons and complaint, or judgment shall be entered against him. The summons and complaint shall be served on the defendant by an officer of the court, and a return by said officer showing that he served the complaint and the date of service on the defendant shall be filed with the Clerk of the Court.

B. In case service of the summons and complaint cannot be made in the Reservation, the summons, together with a copy of the complaint, shall be forwarded to the Chief Executive Officer of the Tribe where the defendant is enrolled, or found residing, and there served.

C. If service cannot be made personally either on the Laguna Pueblo Reservation or on the Reservation where the defendant is enrolled or residing, a return shall be made to the Clerk showing said facts; thereupon, the Clerk shall cause to be posted at the Laguna Pueblo Reservation in the village where the defendant previously resided, a copy of the summons and complaint shall be mailed to the last known post office address of the defendant. Service of the summons and complaint shall thereupon be deemed complete twenty (20) days after the posting of said summons and complaint and the mailing of said summons and complaint. The defendant shall have twenty (20) days in which to answer the complaint from time of completed service, either personally, by posting or mailing.

D. If the defendant fails to appear and answer within the required time, the case shall be heard by the court at any time thereafter. If the defendant answers the case, the trial shall be placed on the calendar by the Clerk and tried by the court as soon as possible.

E. The court shall thereupon make and enter its conclusions and issue a judgment which is to be filed in the records of the court. Said judgment shall become enforceable if not appealed within ten (10) days from the date of entry of the judgment.

Section 12-1-3. Costs.

In all civil suits the person filing the complaint shall pay a filing fee to the Clerk of the Court in the amount of five dollars (\$5.00) and a service of process fee of one dollar (\$1.00). When judgment has been entered by the court, after hearing the merits of the case, the court may order the person against whom the judgment is entered to pay all costs of the case, including the refunding, if necessary, to the complainant of the amount paid by the complainant to the Clerk of the Court as filing fees.

Section 12-1-4. Law applicable in civil cases.

In all civil cases the court shall apply applicable Pueblo of Laguna ordinances and customs. In the event there are no such applicable ordinances and customs, the court may apply such laws of the United States of the State of New Mexico as are appropriate and not in conflict with Pueblo ordinances and customs.

Section 12-1-5. Judgments in civil cases.

A. In all civil actions, the judgment shall consist of an order of the court, in writing, awarding money damages to be paid to the injured party, the performance of some other act for the benefit of the injured party or injunctive relief. This shall be done only if the court finds, after hearing all the evidence, that justice requires that the above be done.

B. Where the injury inflicted was a result of carelessness on the part of the defendant, the judgment shall fairly compensate the injured party for the loss he has suffered.

C. Where the injury was deliberately inflicted, the judgment shall impose an additional penalty upon the defendant for the benefit of the party damaged.

D. Failure of a party to obey a judgment of the court shall constitute contempt of court and shall be punishable by the court by imprisonment for a period of not to exceed thirty (30) days, or a fine not to exceed fifty dollars (\$50.00), or to both such a fine and imprisonment, with costs. This power shall be exercised by the court only where the party involved is able to comply with the judgment but refuses to do so.

CHAPTER 2. TRAFFIC

Section 12-2-1. General.

The provisions of this Traffic Code shall be applicable and uniform throughout the jurisdiction of the Pueblo.

A. *Jurisdiction; civil infractions; offenses by juveniles.*

- (1) The Courts of the Pueblo shall have exclusive, original jurisdiction over all civil traffic infractions under this Traffic Code committed within the jurisdiction of the

Pueblo, notwithstanding the issuance of any patent, and including rights-of-way and easements running through the Pueblo's Reservation, by any person eighteen (18) years of age or older.

- (2) Jurisdiction for provisions of this Traffic Code over juveniles under eighteen (18) years of age shall be as provided under section 7-1-1 and all other applicable laws.

B. *Application.* The provisions of this Traffic Code shall be applicable and uniform throughout the Pueblo Lands under the jurisdiction of the Pueblo. The provisions in section 15-14-1, "Offense against the public order", related to driving offenses, which shall remain in full force and effect.

C. *Traffic offense hearings; appeals.*

- (1) The presiding judge of the Pueblo Court shall appoint hearing officers in accordance with title V, chapter 1, "Appointment and retention of judges", who shall be qualified and authorized to conduct civil hearings on traffic violations. Such hearing officers shall preside over hearings and dispositions of civil traffic refractions, subject to the provisions of subsection 12-2-1E.
- (2) A final decision by the hearing officer may be appealed to the Pueblo Court, provided that the appeal is filed with the Pueblo Court within fifteen (15) days of the hearing officer's decision. The decision of the Pueblo Court Judge in such appeal shall constitute the final judgment and order of the court and shall not be subject to further appeal or review.

D. *[Reserved.]*

E. *Civil compromise; dismissal.*

- (1) In any pending civil action based upon a complaint for injury and/or damages resulting from an infraction under this Traffic Code, the hearing officer or judge of the Pueblo Court may dismiss such pending action, upon motion filed by the respondent together with the sworn stipulation and acknowledgment by all parties claiming injury or damage resulting therefrom, of receipt from respondent of full compensation and satisfaction therefor.
- (2) This section shall not authorize such dismissal of, nor shall any pending citation or complaint for any misdemeanor offense hereunder be dismissed, based on such compensation and satisfaction.

F. *Definitions.* The laws in this chapter shall be referred to as the Pueblo Traffic Code or Traffic Code. This Traffic Code is intended to be gender-neutral and the use of the

pronouns "his or her" or "hers" shall be interpreted to refer to both male and female genders. The definitions contained herein shall apply to all sections of this Traffic Code, unless the context otherwise requires.

Abandoned when used to describe a vehicle, means a vehicle or motor vehicle left unattended on either private or public property, for an unreasonable length of time, which after being reported to the Pueblo of Laguna Police Department, has been discovered by that department:

- (a) Not to have been stolen; and
- (b) Not capable of the establishment of legal ownership by normal record-checking procedures; and
- (c) The legal ownership of which is not claimed or asserted by any person.

All terrain vehicle or *ATV* means every motor vehicle having a seat or saddle for the use of a rider designed to travel on three (3) or more wheels in contact with the ground, which is not equipped for or used for operation on roadways.

Authorized emergency vehicle means properly marked vehicles of a fire department, police vehicles, and ambulances or other emergency vehicles designated or authorized as such by the Pueblo or the State of New Mexico, a political subdivision of the state, or the United States Government and with authorized emergency equipment in operation.

Bicycle means every device propelled by human power upon which any person may ride, having two (2) tandem wheels either of which is more than sixteen (16) inches in diameter or having three (3) wheels in contact with the ground any of which is more than sixteen (16) inches in diameter.

Crosswalk means any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Drag race means the operation of two (2) or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one (1) or more vehicles over a common selected course from the same point to the same point for the purpose of comparing the relative speeds or power of acceleration of the vehicle or vehicles within a certain distance or time limit.

Driver means every person who drives or is in actual physical control of a motor vehicle, including a motorcycle, upon a roadway or any lands under the jurisdiction of the Pueblo, or who is exercising control over or steering a vehicle being towed by a motor vehicle.

Farm tractor means every motor vehicle designed and used primarily as a farm implement for drawing plows and mowing machines and other implements of husbandry.

Intersection means the area embraced within the prolongation or connection of the lateral curb lines, or if none, then the lateral boundary lines of the roadways of two (2) roadways which join one another at, or approximately at, right angles; or the area

within which vehicles traveling upon different roadways joining at any other angle may come in conflict. Where a roadway includes two (2) roadways thirty (30) or more feet apart, then every crossing of each roadway of such divided intersecting roadway shall be regarded as a separate intersection. If the intersection roadway also includes two (2) roadways thirty (30) or more feet apart, then every crossing of two (2) roadways of the roadway shall be regarded as a separate intersection.

Motorcycle means every motor vehicle having a seat or saddle for the use of a rider designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor.

Motor vehicle means every vehicle which is self-propelled by the use of an internal motor, regardless of the type of fuel or power used.

Negligence means the failure to use a reasonable degree of care which an ordinary prudent person would exercise under the circumstances, which failure results in injury to persons or damage to the property of another.

Official traffic control devices means all signs, signal markings and devices not inconsistent with this Traffic Code placed or erected by a public body or official having the authority to operate and maintain the roadway where it is located, for the purpose of regulating, warning or guiding traffic.

Open container means any bottle, can or other receptacle containing any alcoholic beverage that has been opened or had its seal broken or the contents of which have been partially removed.

Operator means a person other than a licensed chauffeur, who drives or is in actual physical control over a motor vehicle upon a roadway, or who is exercising control over or steering a vehicle being towed by a motor vehicle.

Owner means a person who holds the legal title of a vehicle or, if a vehicle is the subject of an agreement for the conditional sale or lease with the right of purchase upon performance of the conditions stated in the agreement.

Park if prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of, and while actually engaged in loading or unloading.

Passenger vehicle means a motor vehicle with motor power designed to carry passengers; this does not include motorcycles, trailers or vehicles constructed on a truck chassis with a gross vehicle weight of more than ten thousand (10,000) pounds.

Pedestrian means any person afoot. A person who is not ambulatory and is in a wheelchair is considered a pedestrian.

Person means every natural person, company, firm, partnership, association or corporation.

Police or law enforcement officer means every officer duly authorized or commissioned by the authority of the Pueblo to direct or regulate traffic or to enforce or to make arrests for violations of the Pueblo Traffic Code.

Race means the use of one (1) or more vehicles to outgain or outdistance another vehicle from passing, to arrive at a given destination ahead of another vehicle, or to test the physical or mental stamina or endurance of drivers over long-distance routes.

Right-of-way when used within the context of the regulation of the movement of traffic on a roadway means the privilege of the immediate use of the roadway. "Right-of-way" when used within the context of the real property upon which transportation facilities and appurtenances to such facilities are constructed or maintained means the lands or interest in lands within a right-of-way or easement boundaries.

Roadway means the entire width between the boundary lines of every thoroughfare, whether improved or unimproved, designed or ordinarily used for vehicular travel, exclusive of the shoulder, within the jurisdiction of the Pueblo when any part thereof is open to the use of the public for the purpose of vehicular travel, even though it may be temporarily closed or restricted for the purpose of construction, maintenance, repair or reconstruction. "Roadway" includes any such street, highway, freeway or interstate highway.

Safety zone means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

School bus means any motor vehicle operating under the authority of a school district, private school, parochial school, community school, government school, or contract school which is used to transport children, students or teachers to and from school, or to and from any school activity.

Sidewalk means that portion of a roadway between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

Shoulder means the area immediately adjacent to the edge of a paved road.

Stop, if required, means complete cessation from movement.

Stop, stopping or standing, if prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with directions of a police officer or traffic control sign or signal.

Through roadway means a roadway or portion of a roadway at the entrances to which vehicular traffic from intersecting roadways is required by law to stop before entering or crossing and when stop signs are erected, as provided in this Traffic Code.

Traffic means pedestrians, ridden or herded animals, vehicles and other conveyances either singly or together while using any roadway for purposes of travel.

Traffic control signal means a device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

Truck means any motor vehicle designed or used primarily for the carrying of property other than the effects of the driver or passengers and includes a motor vehicle to which has been added a box, platform or other equipment for such carrying.

Vehicle shall mean every device in, upon or by which any person or property is or may be transported or drawn upon a roadway, including frame chassis or body of any vehicle or motor vehicle except devices driven by human power or used exclusively upon stationary rails or tracks.

- G. *Enforcement.* The Pueblo Police, and other law enforcement officers authorized by the Pueblo, shall be responsible for the enforcement of all regulations, rules and controls as established in this Traffic Code.
- H. *Civil assessment fees.*
- (1) It shall be a civil infraction for any person to violate any of the provisions of this Traffic Code.
 - (2) Any person violating any provision of this Traffic Code within the jurisdiction of the Pueblo shall be subject to citation and a civil assessment fee as set by the Pueblo Council as amended from time to time. Any person who refuses to sign a citation upon issue shall be required to post a bond in an amount set by the Pueblo Court in order to secure such person's appearance for trial in the Pueblo Court at a later date.
- I. *Valid driver's license, registration and proof of insurance or financial responsibility required; exceptions.*
- (1) Any person operating a motor vehicle within the jurisdiction of the Pueblo must possess a valid driver's license issued by his or her state or country of residence, evidence of vehicle registration issued by the state, county or Tribe where registered, and proof of insurance or financial responsibility as then specified under the laws of the State of New Mexico.
 - (2) The following driver's license exceptions shall apply:
 - (a) Any employee of the United States while driving a motor vehicle owned or leased to the United States and being driven on official business;
 - (b) Any person in the military service of the United States or within thirty (30) days of discharge from military service when:
 - (i) He or she holds a New Mexico driver's license not more than six (6) years old, which expired while the holder was in service;
 - (ii) He or she is stationed outside New Mexico;
 - (iii) He or she is on leave from service.

- (c) Any driver of a farm tractor or agricultural implement temporarily drawn, moved or propelled on the roadway is exempt from possessing a driver's license.
 - (d) Any driver of an all terrain vehicle is exempt from possessing a driver's license.
- J. *Possession of license, registration and proof of insurance or financial responsibility; display.* A licensee shall have such license, registration and proof of insurance or financial responsibility in his or her possession at all times when he or she is operating a motor vehicle, and shall upon demand display the same to any member of the Pueblo Police Department and any police officer commissioned by the Pueblo.
- K. *Driving while license is suspended or revoked.* It shall be unlawful for any person to drive a motor vehicle on the public roadways within the Pueblo if his or her driver's license or permit has been suspended or revoked.
- L. *Permitting unauthorized persons to drive.* No person shall knowingly authorize or permit a motor vehicle owned by him or under his control to be driven on any public roadway within the Pueblo by a person who is not licensed to drive.
- M. *Unlawful use of license.* It shall be unlawful for any person:
 - (1) To use any expired, revoked or suspended, false or fraudulently altered driver's or chauffeur's license;
 - (2) To lend his or her driver's license or chauffeur's license to any other person or knowingly permit the use thereof by another;
 - (3) To use any license not issued to him or her;
 - (4) To permit any unlawful use of an driver's or chauffeur's license issued to him or her, including, but not limited to driving under the influence of intoxicating liquor or drugs.
- N. *Pueblo Court permit.* The Pueblo Court shall have the authority to issue a permit to any person whose license to drive has been suspended or revoked, allowing said person to drive to and from his place of employment or for any other limited purpose necessary for the health and welfare of him or his family, provided that such permit shall be valid only within the jurisdiction of the Pueblo.
- O. *Authorized emergency vehicles.*
 - (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of law, or when responding to, but not upon returning from, a fire alarm, is exempt from the requirements in this Traffic Code.
 - (2) Upon the immediate approach of an authorized emergency vehicle with at least one (1) lighted lamp exhibiting red light and when the driver is given an audible signal by siren, exhaust whistle, or bell, the driver of every vehicle shall yield the right-of-way and shall immediately drive to a position parallel and as close as

possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in that position until the authorized emergency vehicle has passed except when otherwise directed by a police officer.

- (3) The provisions of this section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall these provisions exempt any party from the consequences of his or her reckless disregard for the safety of others.

P. *Traffic laws apply to persons riding animals or driving animal-drawn vehicles.* Every person riding an animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this Traffic Code, except those provisions of this Traffic Code which by their very nature can have no application.

Q. *Traffic control devices and signs.*

- (1) The appropriate department of the Pueblo, is authorized to place and maintain traffic control devices and weigh stations upon or within the right-of-way or vicinity of Pueblo roadways and bridges of the Pueblo.
- (2) No person shall place or maintain any traffic control device or sign upon or near any roadway or bridge operated and maintained by the Pueblo, except upon advance permission granted by the appropriate authority of the Pueblo and only when in conformance and compliance with all applicable Pueblo and federal laws.

R. *Drivers to exercise due care; careless driving.*

- (1) Every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian, vehicle or animal upon any roadway and shall give warning, sounding the horn when necessary, and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.
- (2) Careless driving. No person shall drive in other than a careful and prudent manner or without due regard for the conditions of traffic, weather, and roadway, grade, corners, width of roadway and all other attendant circumstances.

S. *Pedestrians subject to traffic regulations; use of due care.*

- (1) Pedestrians shall obey traffic control signals at intersections; where no signals are in place pedestrians shall have the right-of-way subject to the restrictions in this Traffic Code.
- (2) All pedestrians shall exercise due caution and reasonable care when walking adjacent to a roadway.

T. *Pedestrians' right-of-way in crosswalks.*

- (1) When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slow down, or stop if necessary to allow a

pedestrian to cross the roadway within a crosswalk when the pedestrian is upon the same half of the roadway as the vehicle, or when the pedestrian is close enough on the other side to be in danger.

- (2) The driver of a vehicle approaching a legally blind pedestrian who is carrying a cane predominantly white or metallic in color, or is using a guide-dog or is assisted by a sighted person shall yield the right-of-way and take reasonable precautions to avoid injury to such pedestrian. In addition, the pedestrian shall have the same rights as all other pedestrians whether or not he or she is carrying such cane, using such dog or being assisted by such sighted person.
- (3) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.
- (4) When any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

U. *Crossing at other than crosswalks.* Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

V. *Use of Pueblo roads for public events.* Pueblo roads may not be used for any public event that will affect or interfere with the normal flow of traffic, unless prior consent for such use has been obtained in writing from the Office of the Governor.

Section 12-2-2. Accidents.

A. *Duty upon striking unattended vehicle.* The driver of any vehicle which collides with or otherwise causes damage to any vehicle left unattended shall immediately stop and then locate and notify the operator or owner of the vehicle or shall leave in a conspicuous place in or on the vehicle damaged, a written notice giving the name and address of the driver and the owner of the vehicle causing the damage. The driver of the vehicle shall report the accident as required by section 12-2-2.

B. *Duty upon striking fixtures upon a roadway.* The driver of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a roadway shall take reasonable steps to locate and notify the owner or person in charge of the property of that fact. The driver shall give his or her name, address and the registration number of the vehicle he or she is driving, and shall upon request exhibit his or her driver's or chauffeur's license and shall notify the Pueblo Police Department of the accident as required by section 12-2-2.

C. Written reports of accidents.

- (1) The driver of any vehicle involved in an accident resulting in bodily injury to or death of any person or property damage to another vehicle shall immediately notify the Pueblo Police Department and shall provide all relevant information about such accident requested by the Pueblo Police Department.
- (2) The police may require any driver of a vehicle involved in an accident requiring the completion and filing of a report as provided under this Traffic Code, and any witness to such accident to provide statements as deemed appropriate by the Pueblo Police Department.
- (3) Upon receiving notice of a motor vehicle accident, the Pueblo Police Department shall cause an investigation of the accident to occur, either at the time of and at the scene of the accident or thereafter by interviewing passenger(s) or witnesses. Every law enforcement officer who investigates a motor vehicle accident shall, within seventy-two (72) hours after said accident, complete and submit a written report of the accident. The original copy of the report shall be retained by the Pueblo Police Department. The Pueblo Police Department shall stamp the date and hour received and may place such notes, date stamps, identifying numbers, marks or other information on such copies as required, provided that it will not alter the original information as reported by the investigating officer. Copies of the report form shall be made available to the parties involved at a charge established by the Pueblo Police Department.

D. Notice to parents or legal guardian of minor involved in motor vehicle accident. Every law enforcement officer who makes the initial investigation of a motor vehicle accident in which a minor was involved, shall inquire and attempt to determine or locate the telephone number and address of the parents or legal guardian of that minor and shall make every reasonable effort to notify or have the parents or legal guardian notified of the accident immediately or as soon as possible, upon securing the scene of the accident and determining that required arrangements have been made for the transportation and or care of the injured party(ies).

E. When driver is unable to provide notice.

- (1) When the driver of a vehicle is physically incapable of giving immediate notice of an accident as required in subsection 12-2-2C., and there is another occupant in the vehicle at the time of the accident capable of giving notice, that occupant shall make or cause the notice to be made to the Pueblo Police Department.
- (2) When the driver is physically incapable of giving immediate notice of an accident as required in subsection 12-2-2C. hereof, and the driver is not the owner of the vehicle, then the owner of the vehicle involved in the accident shall notify the Pueblo Police Department of the accident immediately upon being informed.

F. Accident notice and report forms.

- (1) The Pueblo Police Department shall prepare, and upon request, supply to law enforcement officers and other suitable agencies or individuals, forms for accident notices and reports required under this Traffic Code. The written reports to be made by investigating officers shall include space for sufficiently detailed information regarding a traffic accident including the identity of the person or persons providing notice of the accident, disclosure of all causes, weather and road conditions, the location of the accident and identification of all persons, witnesses and vehicles involved, injuries (if any), damage(s) observed, photo(s) and relevant statements, measurements and diagrams depicting the physical scene, insurance information on and all other relevant information.
- (2) Every accident report required to be made in writing shall be made on the appropriate form approved by the Pueblo Police Department and shall contain all of the information required therein.

G. Disclosure of accident report information.

- (1) The police may disclose:
 - (a) The identities of the parties involved in an accident; and
 - (b) The fact that the owner or operator of a motor vehicle involved in the accident is or is not insured and if he or she is insured, the name and address of the insurance carrier.
- (2) The Pueblo Police Department shall furnish upon demand of any person or their lawfully authorized representative who has or claims to have given notice of an accident, or upon the demand of any court, a certificate showing that a specified notice of accident has or has not been made to the police solely to prove compliance or a failure to comply with the requirement that notice be given to the Pueblo Police Department.
- (3) The Pueblo Police Department shall furnish a copy of the investigating officer's accident report to the parties involved in an accident and to any court of competent jurisdiction.

Section 12-2-3. Speed regulations.*Speed regulation:*

- (1) No person shall operate a vehicle on a roadway at a speed greater than:
 - (a) Fifteen (15) miles per hour when passing a school zone while children are going to, or leaving school, and when the school zone is properly posted.
 - (b) Twenty (20) miles per hour in any business or residential district, provided that where speed limits are posted, such posted limits shall control.
 - (c) Fifty (50) miles per hour on roadways in open country, provided that where speed limits are posted, such posted limits shall control.

- (d) Seventy-five (75) miles per hour on interstate highways, provided that where speed limits are posted, such posted limits shall control.
- (2) No person shall drive a motor vehicle at such speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with the law.
- (3) In every event, speed shall be so controlled as may be necessary:
 - (a) To avoid colliding with any person, vehicle, or other conveyance on, or entering, the roadway;
 - (b) To comply with all legal requirements and the duty of all persons to use due care.

Section 12-2-4. Traffic control signs and signals.

A. *Obedience to traffic control devices.* The driver of any vehicle shall obey the instructions of any official traffic control device placed by the official having the authority to operate and maintain the roadway where it is located, unless otherwise directed by a traffic or police officer, subject to the exemptions granted the driver of an authorized emergency vehicle in this Traffic Code.

B. *Traffic control signal legend.*

- (1) When traffic is controlled by traffic control signals showing different colored lights, or colored lighted arrows, either one-at-a-time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend. Such lights shall indicate and apply to drivers of vehicles and pedestrians as follows:
 - (a) *Green:*
 - (i) Vehicular traffic facing a green signal may proceed straight through or turn right or left unless a sign at that place prohibits either turn. Vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time the signal is shown.
 - (ii) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by the arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.
 - (iii) Unless otherwise directed by a pedestrian control signal, pedestrians facing any green signal, except if the sole green signal is an arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(b) *Yellow:*

- (i) Vehicular traffic facing a yellow signal is being warned that the related green indication is being terminated or that a red indication will be shown immediately thereafter when vehicular traffic shall not enter the intersection.
- (ii) Pedestrians facing a yellow signal, unless otherwise directed by a pedestrian control signal, are thereby advised that there is not enough time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(c) *Red:*

- (i) Vehicular traffic facing a red signal shall stop before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection and shall remain stopped until an indication to proceed is shown except as provided in subsection (c)(ii) below.
 - (ii) The driver of a vehicle which is stopped as close as practicable at the entrance to a crosswalk on either side of the intersection, or if none, then at the entrance to the intersection, in obedience to a red signal, may make a right turn, but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal. Right turns may be prohibited against a red signal at any intersection when a sign is posted at the intersection prohibiting such turn.
- (2) If an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall apply.

C. *Flashing signals.* When an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

- (1) *Flashing red: Stop signal.* When a red light shows rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk or intersection. The right to proceed shall be subject to the rules applicable after making a stop at a stop sign.
- (2) *Flashing yellow: Caution signal.* When a yellow light shows rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

D. *Display of unauthorized signs, signals or warnings.*

- (1) No person shall place, maintain or display upon or in view of any roadway any unauthorized sign, signal, marking or device which is a copy of or looks similar to an official traffic control device or railroad sign and signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal. No person shall place upon any traffic sign or signal any commercial advertising or political campaign

literature. This section shall not prohibit the erection upon private property adjacent to roadways, of signs giving useful directional information and of a type that cannot be mistaken for official signs.

- (2) Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance and the public body having the authority to operate and maintain the roadway, including officers of the Pueblo Police Department, is empowered to remove the same or cause it to be removed without notice.

E. Interference with official traffic control devices or railroad signs or signals.

- (1) No person shall without lawful authority alter, deface, injure, knock down or remove any official traffic control device or any railroad sign or signal or any inscription shield or insignia thereon, or any part thereof.
- (2) Restitution. The Pueblo Court, in addition to, or in lieu of, any civil assessment imposed, may require any person found in violation of this section, to pay to the Pueblo the full cost of replacing or the repair of such traffic control device or railroad sign or signal as is damaged or defaced.

Section 12-2-5. Yielding right-of-way.

A. Vehicle approaching or entering intersections; right-of-way; exception. When two (2) vehicles enter or approach an intersection from different roadways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right. This subsection does not apply to vehicles approaching or entering an uncontrolled "T" intersection when the vehicle on the left is on a continuing roadway and the vehicle on the right is on the terminating roadway. The vehicle on the terminating roadway shall yield to the vehicle on the continuing roadway.

B. Vehicle turning left at intersection. The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

C. Vehicle entering stop or yield intersection.

- (1) Preferential right-of-way at an intersection may be indicated by stop signs or yield signs as authorized in this Traffic Code.
- (2) Except when directed to proceed by a police officer or traffic control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop. After having stopped, the driver shall yield the right-of-way to any vehicle which has entered the intersection from another roadway or which is approaching so closely on the roadway as to constitute an immediate hazard during the time when the driver is moving across or within the intersection.
- (3) The driver of a vehicle approaching a yield sign shall, in obedience to the sign, slow down to a speed reasonable for the existing conditions, and shall yield the right-of-way

to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection. If the driver is involved in a collision with a vehicle in the intersection, after driving past a yield sign without stopping, the collision shall be deemed prima facie evidence of his or her failure to yield right-of-way.

D. *Vehicle entering roadway from private road or driveway.* The driver of a vehicle about to enter or cross a roadway from a private road or driveway shall yield the right-of-way to all closely approaching vehicles on the roadway.

Section 12-2-6. Driving; overtaking; passing.

A. *Overtaking a vehicle on the left.* The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules stated in this Traffic Code.

- (1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe speed and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.
- (2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on signal light at daytime or blinking of head lamp at nighttime, and shall not increase speed of his or her vehicle until completely passed by the overtaking vehicle.

B. *When overtaking on the right is permitted.*

- (1) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:
 - (a) When the vehicle overtaken is making or about to make a left turn.
 - (b) Upon a roadway with unobstructed pavement not occupied by parked vehicles of sufficient width for two (2) or more lines of moving vehicles in each direction.
 - (c) Upon a one-way roadway, or upon any roadway on which traffic is restricted to one (1) direction of movement, where the roadway is free from obstructions and of sufficient width for two (2) or more lines of moving vehicles.
- (2) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions allowing the movement in safety. In no event shall the movement be made by driving off the pavement or main-traveled portion of the roadway.

C. *Limitations on overtaking on the left and driving to left of center of roadway.*

- (1) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless the left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit the overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle

overtaken. In every event, the overtaking vehicle must return to the right-hand side of the roadway before coming within two hundred fifty (250) feet of any vehicle approaching from the opposite direction.

- (2) No vehicle shall at anytime be driven to the left side of the center of the roadway under the following conditions:
 - (a) When approaching the crest of a grade or upon a curve in the roadway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
 - (b) When approaching within one hundred (100) feet of or traversing any intersection or where appropriate signs or markings have been installed to define a no passing zone;
 - (c) When the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct or tunnel.
- (3) The limitations set forth in subsection C.(1) of this section shall not apply upon a one-way roadway.

D. *No passing zones.* The agency of appropriate public body with the authority to operate and maintain the roadway is authorized to determine those portions of any roadway where overtaking and passing or driving to the left of the roadway is prohibited because it would be especially hazardous and may, by appropriate signs or markings on the roadway, indicate the beginning and end of such no passing zones; and when the signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof.

E. *Overtaking and passing stopped school bus.*

- (1) The driver of a vehicle, upon approaching or overtaking from either direction any school bus which has stopped on the roadway, with school bus signals in operation for the purpose of receiving or discharging any school children, shall stop the vehicle at least ten (10) feet before reaching the school bus and shall not proceed until the school bus resumes motion, or until signaled by the school bus driver to proceed.
- (2) The driver of a vehicle upon a roadway with separate roadways need not stop upon meeting or passing a stopped school bus which is on a different roadway or when upon a controlled access roadway and the school bus is stopped in a loading zone which is part of, or adjacent to, such roadway and where pedestrians are not permitted to cross the roadway.

F. *Driving on roadways laned for traffic.* When any roadway has been divided into two (2) or more clearly marked lanes for traffic, the following rules in addition to all others consistent with this section shall apply:

- (1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from that lane, until the driver has first made sure that the movement can be made with safety.

- (2) Upon a roadway which is divided into three (3) lanes a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and the center lane is clear of traffic within a safe distance, or in preparation for a left turn or where the center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is sign-posted to give notice of the allocation.
- (3) Official signs may be posted directing slow-moving traffic to use a designated lane, or designating those lanes to be used by traffic moving in a particular direction, regardless of the center of the roadway. Drivers of vehicles shall obey the directions of such signs.

G. *Following too closely.*

- (1) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable, having due regard for the speed of the vehicle and the traffic upon, and the condition of, the roadway.
- (2) The driver of any motor truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residential district and when following another motor truck or motor vehicle drawing another vehicle shall, when conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy the space between them without danger.
- (3) Motor vehicles being driven upon any roadway outside of a business or residential district in a caravan or motorcade, whether or not towing other vehicles, shall be so operated as to allow enough space between each vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy the space without danger. The provisions of this subsection shall not apply to funeral processions.

H. *Driving on divided roadways.* When any roadway has been divided into two (2) roadways by leaving an intervening space or by a physical barrier or by clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway and no vehicle shall be driven over, across, or within the dividing space or barrier except through an opening in the physical barrier or dividing section, or at a crossover or intersection established by public authority.

I. *Restricted access.* No person shall drive a vehicle onto or from any controlled access roadway except at officially established entrances and exits.

J. *Drive on right side of roadway; exceptions.*

- (1) Upon all roadways of sufficient width a vehicle shall be driven upon the right-half of the roadway, and where practicable, entirely to the right of the center thereof, except as follows:
 - (a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

- (b) When the right-half of a roadway is closed to traffic while under construction, repair or when an accident has occurred hindering traffic.
- (2) Upon a roadway divided into three (3) marked lanes for traffic under the applicable rules;
- (3) Upon a roadway designated and sign-posted for one-way traffic; or
- (4) Upon all roadways, any vehicle proceeding at less than the normal speed of traffic shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another car proceeding in the same direction or when preparing for a left turn at an intersection or onto a private road or driveway.

Section 12-2-7. Stopping, turning, starting and signals on stopping and turning.

A. Authority to designate stop and yield intersection.

- (1) The public body with the authority to operate and maintain a roadway may designate through roadways and post "stop" or "yield" signs at specified entrances thereto or may designate any intersection as a "stop" or "yield" intersection and post like signs at one (1) or more entrances to the intersection.
- (2) Every driver of a vehicle approaching a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersecting roadway.
- (3) Every driver of a vehicle shall come to a full stop at each such stop sign and shall not proceed until he can do so safely.

B. Emerging from alley or private driveway. The driver of a vehicle within a business or residential district emerging from an alley, driveway or building shall stop the vehicle immediately prior to driving onto a sidewalk or into the sidewalk area extending across any alleyway or private driveway. The driver shall yield the right-of-way to pedestrians as may be necessary to avoid collision and upon entering a roadway, shall yield the right-of-way to all closely approaching vehicles on the roadway.

C. Duty when approaching horse-drawn vehicles and livestock. Every person operating a motor vehicle upon any public roadway and approaching any horse-drawn wagon, or any horse upon which any person is riding or livestock being driven upon the roadway, shall exercise reasonable precaution to prevent frightening and to safeguard such animals and to insure the safety of any person riding or driving the same.

D. Stopping at all railroad grade crossings. The driver of any motor vehicle carrying passengers for hire, or of any school bus carrying any school child, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing any track or tracks of a railroad, not less than fifteen (15) feet from the nearest rail or such railroad

and while so stopped shall listen and look in both directions along such track for an approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely. No stop need be made at any such crossing where a police officer or a traffic control signal directs traffic to proceed.

E. Required position and method of turning at intersections. The driver of a vehicle intending to turn at an intersection shall do so as follows:

- (1) The approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
- (2) When making a left turn from a two-way road onto a two-way road, the driver shall use the lane closest to the centerline. When entering the intersection, the driver, if possible shall drive to the left of the center of the intersection and proceed cautiously to the lane closest to the center lane on the right of the roadway which the driver is entering.
- (3) When making a left turn into and/or from a one-way roadway, the driver shall use the extreme left-hand lane and enter the extreme left-hand lane available in the direction he or she is going upon the roadway being entered.
- (4) Upon a roadway with two (2) or more lanes for through-traffic in each direction, where a center turning lane has been provided by distinctive pavement markings for the use of vehicles turning left from both directions, no vehicle shall turn left into the other lane. A vehicle shall not be driven in the center lane for the purpose of overtaking or passing another vehicle proceeding in the same direction. Any maneuver other than a left turn from this center lane will be deemed a violation of this section.

F. Turning on curve or crest of grade prohibited. No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to, or near the crest or grade, where the vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred (500) feet.

G. Starting parked vehicle. No person shall move a vehicle which is stopped, standing or parked unless and until the movement can be made with reasonable safety.

H. Turning movements and required signals.

- (1) No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway, as required in subsection 12-2-7A., hereof, or turn a vehicle to enter a private roadway or driveway or otherwise turn a vehicle from a direct course or move right or left upon a roadway, unless and until the movement can be made with reasonable safety. No person shall turn any vehicle without giving an appropriate signal in the manner provided by this Traffic Code in the event any other traffic may be affected by the movement.
- (2) A signal of intention to turn right or left when required shall be given continuously during not less than the last one hundred (100) feet traveled by the vehicle before aiming.

- (3) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided by this Traffic Code to the driver of any vehicle immediately to the rear when there is opportunity to give the signal.

I. *Stop and turning signals.* Any required stop or turn signal shall be given either by means of the hand and arm or by a signal lamp or lamps or mechanical signal device.

J. *Method of giving hand and arm signals.* All signals required by this Traffic Code to be given by hand and arm shall be given from the left side of the vehicle in the following manner and the signals shall indicate as follows:

- (1) *Left turn:* Hand and arm extended horizontally.
- (2) *Right turn:* Hand and arm extended upward.
- (3) *Stop or decrease speed:* Hand and arm extended downward.

Section 12-2-8. Stopping, standing or parking.

A. *Stopping, standing or parking outside of business or residential district.*

- (1) Upon any roadway outside of a business or residential district, no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the roadway when it is practicable to stop, park or leave the vehicle off that part of the roadway. In any event, an unobstructed width of the roadway opposite a standing vehicle shall be left for the free passage of other vehicles, and a clear view of the stopped vehicles shall be available from two hundred (200) feet in each direction of the roadway.
- (2) This section shall not apply to the driver of any vehicle which is disabled while on the paved or main-traveled portion of a roadway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle in such position.

B. *Officers authorized to remove illegally stopped vehicles.*

- (1) When any police officer finds a vehicle standing upon a roadway in violation of the provisions of subsection A., hereof, the officer is authorized to move the vehicle, or require the driver or other person in charge of the vehicle to move it to a position off the paved or main-traveled part of the roadway.
- (2) Any police officer is authorized to remove or cause to be removed to a place of safety any unattended vehicle illegally left standing upon any roadway, bridge, causeway, or in any tunnel, when the vehicle is in such position or under such circumstances as to obstruct the normal movement of traffic.
- (3) Any police officer is authorized to remove or cause to be removed to the nearest garage or other place of safety any vehicle found upon a roadway:
 - (a) When a report has been made that such vehicle has been stolen or taken without the consent of the owner;

- (b) When the person or persons in charge of such vehicle are unable to provide for its custody or removal;
 - (c) When a vehicle is "abandoned" for an unreasonable length of time and legal ownership can neither be established by normal record-keeping procedures, nor is asserted or claimed by any person; or
 - (d) When the person driving or in control of such vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested immediately into custody.
- (4) Any police officer shall conduct a thorough inventory of property found in a vehicle upon the arrest of the person driving or in control of the vehicle.

C. Stopping, standing or parking in specified places. No person shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic control device, in any of the following places:

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within twenty (20) feet of a fire hydrant;
- (5) On a crosswalk;
- (6) Within thirty (30) feet of a crosswalk at an intersection;
- (7) Within thirty (30) feet of the approach to any flashing beacon, stop sign, yield sign or traffic control sign located along the side of the roadway;
- (8) Between a safety zone and the adjacent curb;
- (9) Within fifty (50) feet of the nearest rail or railroad crossing, except while a motor vehicle with automotive power is loading or unloading railroad cars;
- (10) Within thirty (30) feet of the driveway entrance to any fire station and on the side of a roadway opposite the entrance to any fire station within seventy-five (75) feet of the entrance when properly posted;
- (11) Alongside or opposite any roadway excavation or obstruction when stopping, standing or parking would obstruct traffic;
- (12) On the roadway side of any vehicle stopped or parked at the edge or curb of a tunnel;
- (13) Upon any bridge or other elevated structure upon a roadway or within a roadway;
- (14) At any place where official signs prohibit standing or stopping; or
- (15) At any parking space designated for disabled persons.

D. Parking privileges for the physically disabled.

- (1) A physically disabled person who displays upon the motor vehicle parked by him or her, or under his or her direction and for his or her use, a distinguishing insignia or number plates bearing the international wheelchair symbol may park except as provided in subsections 12-2-8A. and C., except where such parking would create a dangerous situation or impede the normal flow of traffic. The distinguishing insignia or number plates bearing the international wheelchair symbol shall be displayed on or in the motor vehicle.
- (2) It is unlawful for any person to park a motor vehicle not carrying a distinguishing insignia or number plates bearing the international wheelchair symbol, in a designated disabled parking space or blocking a curb cut. Any person who violates this section shall be subject to a civil assessment.
- (3) A person charged with a violation of subsection B. of this section shall not be determined to have committed an infraction he or she produces in court distinguishing insignia or number plates bearing the international wheelchair symbol or demonstrates that he or she was entitled to such at the time of the violation.

Section 12-2-9. Miscellaneous provisions.*A. Riding on motorcycles.*

- (1) No person shall operate a motorcycle or motor-driven cycle upon a public roadway in the Pueblo unless he or she has a valid operator's license issued by the state or country of his or her residence.
- (2) A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and the operator shall not carry any other person, nor shall any other person ride on a motorcycle unless the motorcycle is designed to carry more than one (1) person, in which event a passenger may ride upon the permanent and regular seat designed for two (2) persons, or upon another seat firmly attached to the rear or side of the operator.
- (3) Any person operating a motorcycle not having a fixed windshield shall wear an eye protective device, which may be a face shield attached to a safety helmet, goggles or safety eyeglasses.
- (4) No person under the age of eighteen (18) years shall operate or be a passenger on a motorcycle unless he or she is wearing a safety helmet securely fastened on his or her head in a normal manner as headgear.

B. Obstruction to driver's view.

- (1) No person shall drive a vehicle when it is so loaded or when there are in the front seat such number of persons as to obstruct the view of the driver to the front or sides or rear of the vehicle or as to interfere with the driver's control over the driving mechanism(s) of the vehicle.

- (2) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides or to the rear or to interfere with his or her control over the driving mechanism(s) of the vehicle.

C. *Coasting prohibited.* The driver of any motor vehicle when traveling upon a downgrade shall not coast with the clutch disengaged or with the motor off.

D. *Placing litter, glass or other objects on roadway.*

- (1) No person shall litter or deposit upon any roadway any paper, glass bottle, glass, nails, tacks, wire, cans or any other substance upon the roadway.
- (2) Any person who drops, or permits to be dropped or thrown upon any roadway a destructive or injurious material shall immediately remove the same or cause it to be removed.
- (3) Any person removing a wrecked or damaged vehicle from a roadway shall remove any glass or other injurious substance dropped by the wrecked or damaged vehicle upon the roadway.

E. *Livestock on roadways.*

- (1) It is unlawful for any person, during the hours of darkness, to ride a horse or other animal upon the shoulder or upon the traveled portion of any roadway which is normally used by motor vehicles.
- (2) It is unlawful for any person to permit livestock to wander or graze upon any fenced roadway at any time or to drive livestock along or upon any roadway which is normally used by motor vehicles during the hours of darkness.
- (3) Owners of livestock ranging in pastures through which unfenced roadways pass, shall not be liable for damages or inquiries to persons or property caused by collisions of vehicles with livestock.

F. *Riding bicycles.*

- (1) Every person riding a bicycle upon a roadway shall be granted all the rights and shall be subject to all the duties applicable to the driver of a vehicle by this Traffic Code, except as to special regulations in this Traffic Code and except as to those provisions of this Traffic Code which by their nature can have no application.
- (2) A person riding a bicycle shall not ride other than upon or astride a permanent attached seat.
- (3) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.
- (4) Any person riding a bicycle shall have at least one (1) hand on the handle bar and shall not carry any package, bundle or article which prevents the driver from keeping at least one (1) hand on the handlebars.

- (5) No persons riding upon any tricycle, bicycle, coaster, roller skates, skateboards, sleds or toy vehicles shall attach the same or himself or herself to any vehicle operated upon a roadway.
- (6) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred (500) feet to the front and with a red reflector on the rear which shall be visible from all distances at least one hundred fifty (150) feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector.
- (7) Every bicycle shall be equipped with a brake which will enable the operator to make the brake wheels skid on dry, level, clean pavement.
- (8) Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or when passing a vehicle proceeding in the same direction.
- (9) Persons riding bicycles upon a roadway shall ride single-file except on paths or parts of roadways set aside for the exclusive use of bicycles.
- (10) Wherever a path for bicycles has been provided adjacent to a roadway, a bicycle rider shall use the path and shall not use the roadway.

G. Riding in bed of pickup truck prohibited; exceptions.

- (1) No person shall transport any passengers under the age of eighteen (18) in the open bed of a pickup truck.
- (2) Exception is made only in the following cases:
 - (a) The pickup truck is being used as a means of group transportation in a recognized community or group religious activity. The driver must be over the age of eighteen (18) and must obey all posted speed limits, and must make sure that there is proper adult supervision, i.e., there is one (1) adult present in the open bed area for every two (2) children under the age of eighteen (18).
 - (b) The pickup truck is being used as a means of group transportation during a funeral. The driver must be over the age of eighteen (18) and must obey all posted speed limits, and must make sure that there is proper adult supervision, i.e., there is one (1) adult present in the open bed area for every two (2) children under the age of eighteen (18).

H. Consumption or possession of alcoholic beverages in open containers prohibited; exceptions.

- (1) No person shall knowingly drink any alcoholic beverage while in a motor vehicle on any roadway within the jurisdiction of the Pueblo.

- (2) No person shall knowingly have in his possession, on his person in any motor vehicle on any roadway within the jurisdiction of the Pueblo any open container containing any alcoholic beverage.
- (3) No owner of a motor vehicle shall knowingly keep or allow to be kept in a motor vehicle on any roadway within the jurisdiction of the Pueblo any open container containing alcoholic beverages, unless the open container is kept in:
 - (a) The trunk of the vehicle or in some other area of the vehicle not normally occupied by the driver or passengers if the vehicle is not equipped with a trunk;
 - (b) The living quarters of a motor home or recreational vehicle;
 - (c) A truck camper;
 - (d) The bed of a pickup truck when the bed is not occupied by passengers;
 - (e) A utility or glove compartment shall be deemed to be within the area occupied by the driver and passengers.
- (4) This section does not apply to:
 - (a) Any person who, upon the written recommendation of a medical doctor, carries alcoholic beverages in that person's motor vehicle for medicinal purposes; or
 - (b) Any clergyman or his agent who carries alcoholic beverages for religious purposes in the clergyman's or his agent's motor vehicle.

I. Riding on all terrain vehicles.

- (1) No person under the age of ten (10) shall operate an all terrain vehicle.
- (2) No person under the age of sixteen (16) shall operate an all terrain vehicle larger than ninety (90) cc displacement.
- (3) No person under the age of eighteen (18) shall operate an all terrain vehicle unless he or she has first passed a certified safety course offered or approved by the Pueblo Police Department. No person under the age of eighteen (18) who is operating an all terrain vehicle shall carry any passenger on the vehicle.
- (4) No person under the age of eighteen (18) shall operate or ride as a passenger on an all terrain vehicle unless he or she is wearing a safety helmet, which complies with the standards of the United States Department of Transportation, securely fastened on his or her head in a normal manner as headgear; protective eye goggles or face shield; gloves; long-sleeved shirt/jacket; and over-the ankle boots.
- (5) Any person operating an all terrain vehicle shall ride only on the permanent and regular seat attached to the vehicle and shall not carry any other person, nor shall any other person ride on the all terrain vehicle, unless it is designed to carry more than one (1) person. If the all terrain vehicle is designed to carry more than one (1) person, the passenger may ride only upon the permanent and regular seat provided for such purpose.

- (6) No person shall operate an all terrain vehicle on any paved roadway at any time, except that an all terrain vehicle may cross a paved roadway, other than a controlled access freeway, after coming to a complete stop prior to entering the roadway. All terrain vehicles must yield the right-of-way to oncoming traffic and shall begin crossing only when it can be executed safely and then cross in the most direct manner and as close to a perpendicular angle as possible.
- (7) An all terrain vehicle may be moved, by nonmechanical means only, adjacent to a paved roadway, other than a controlled access freeway, in a manner that does not interfere with traffic upon the roadway, only for the purpose of gaining access to or returning from areas designated for the operation of all terrain vehicles when no other route is available.
- (8) An operator of an all terrain vehicle shall not be required to possess a driver's license.
- (9) Any operator of an all terrain vehicle involved in an accident resulting in injuries or death of any person or resulting in damage to public or private property, or if the operator is under the age of eighteen (18), the parent or legal guardian of such minor operator, shall immediately notify the Pueblo Police Department and shall provide all relevant information about such accident requested by the Pueblo Police Department. Upon receiving notice of an accident, the Pueblo Police Department shall comply with the requirements of subsection 12-2-2C.

Section 12-2-10. Equipment.

A. It shall constitute a civil infraction for any person to drive or move, or for the owner to cause or knowingly permit to be driven or moved, on any roadway any vehicle or combination of vehicles which is in an unsafe condition so as to endanger any person. Any vehicle which does not contain those parts, or is not at all times equipped with such lamps and other equipment, in proper condition and adjustment as required in this Traffic Code, or which is equipped in any manner that is in violation of this Traffic Code, or for any person to do any act forbidden or fail to perform any act required under this Traffic Code shall constitute a civil infraction. Such violations shall be subject to a civil assessment, and the owner of any motor vehicle cited for such violations shall be obligated to correct any deficiency in the motor vehicle's required equipment within the time set by the Pueblo Court. Such civil assessment may be waived by the Pueblo Court upon proof of correction within the time set by the court.

B. The use of additional parts and accessories on any vehicle shall not be prohibited, unless inconsistent with the provisions of this Traffic Code.

C. The provisions of this Traffic Code with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers or farm tractors except as made applicable by this Traffic Code.

D. *When lighted lamps are required.* Every vehicle operating upon a roadway within the Pueblo at any time from one-half ($\frac{1}{2}$) hour after sunset to one-half ($\frac{1}{2}$) hour before sunrise, and at any other time when there is not sufficient light to render clearly discernible any persons

and/or vehicles on the roadway at a distance of five hundred (500) feet ahead, shall display lighted lamps and reflective devices. Exceptions with respect to parked vehicles as stated in this Traffic Code shall apply.

E. Headlamps.

- (1) Every motor vehicle other than a motorcycle or motor-driven cycle shall be equipped with at least two (2) headlamps with at least one (1) on each side of the front of the motor vehicle.
- (2) Every motorcycle and every motor-driven cycle shall be equipped with at least one (1) and not more than three (3) headlamps.

F. Tail lamps.

- (1) Every motor vehicle, trailer, semitrailer and pole trailer and any other vehicle which is being drawn last, shall be equipped with at least one (1) tail lamp mounted on the rear, which, when lighted shall emit a red light plainly visible from a distance of five hundred (500) feet to the rear.
- (2) Every tail lamp upon every, vehicle shall be located at a height of not more than seventy-two (72) inches, nor less than twenty (20) inches from the level ground.
- (3) Any tail lamp together with any separate lamp for illuminating the rear license plate, shall be wired as to be lighted whenever the headlamps or auxiliary driving lamps are lighted, and free of any obstruction.

G. Lamp or flag on projecting load. At the time specified in subsection 12-2-10D., whenever a load upon any vehicle extends at least four (4) feet or more beyond the bed or body of the vehicle, there shall be displayed at the extreme rear end of the load a red light or lantern plainly visible from a distance of at least five hundred (500) feet to the sides and rear. The red light or lantern shall be in addition to the red rear light required upon every vehicle. At any time, besides those specified in subsection 12-2-10D., there shall be displayed at the extreme rear end of the load a red flag or cloth not less than twelve (12) inches square and hung so that the entire area is visible to the driver of a vehicle approaching from the rear.

H. Signal lamps and signal devices.

- (1) A motor vehicle shall be equipped with the following signal lamps or devices:
 - (a) A stop lamp or stop lamps on the rear which shall emit a red light and which shall light up upon use of the foot brake and which may be incorporated with one (1) or more rear lamps; and
 - (b) A lamp or lamps or mechanical signal device capable of clearly indicating an intention to turn either to the right or to the left and which is visible both from the front and rear.
- (2) Every stop lamp shall be plainly visible from a distance of one hundred (100) feet to the rear both during normal sunlight and at nighttime. A signal lamp or lamps indicating the intention to turn shall be visible and understandable during daytime and

nighttime from a distance of one hundred (100) feet both to the front and rear. When a vehicle is equipped with a stop lamp or other signal lamps, such lamp or lamps shall at all times be maintained in good working condition. No stop lamp or signal lamp shall project a glaring or dazzling light.

- (3) All electro-mechanical signal devices shall be self-illuminated when in use during the times mentioned in subsection 12-2-10D.

I. Special restrictions on lamps.

- (1) No person shall drive or move any vehicle or equipment upon any roadway with any lamp or device displaying a red light visible from directly in front of the center of the vehicle or equipment.
- (2) Flashing red lights are prohibited except on authorized emergency vehicles including emergency volunteers when responding to an emergency, school buses, snow removal equipment and roadway marking equipment. Blinking red lights may be used as warning lights on disabled or parked vehicles and on any vehicle as a means of indicating a turn.

J. Horns and warning devices.

- (1) Every motor vehicle when operated upon a roadway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred (200) feet, but no horn or other warning device shall emit an unreasonably loud and harsh sound or a whistle. The driver of a motor vehicle shall, when reasonably necessary to insure safe operation, give audible warning with his or her horn, but shall not otherwise use the horn when upon a roadway.
- (2) No vehicle shall be equipped with, nor shall any person use upon a vehicle any siren, whistle or bell, except as otherwise permitted in this section.
- (3) It is permissible for a vehicle to be equipped with a theft alarm signal device which is so designed that it cannot be used by the driver as an ordinary warning signal.
- (4) Any authorized emergency vehicle may be equipped with a siren whistle or bell capable of emitting sound audible under normal conditions from a distance of at least five hundred (500) feet. The siren shall not be used except when the vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law. In the latter event, the driver of the vehicle shall sound the siren when reasonably necessary to warn pedestrians and other drivers of its approach.

K. Emergency signals; stopped or parked vehicles. Whenever for any cause other than necessary traffic stops, any motor vehicle is stopped upon the traveled portion of any roadway or shoulder, the driver of such vehicle shall immediately operate the emergency flashing lights of his or her vehicle.

L. *Safety belts required.* It is unlawful for any person to buy, sell, lease, trade or transfer from or to residents of the Pueblo, a motor vehicle which is manufactured or assembled commencing with the 1971 models, unless the vehicle is equipped with safety belts as originally installed for use in the motor vehicle.

M. *Safety belts; type and manner of installation.* Safety belt type and installation specifications shall meet the standards as currently established by the Society of Automotive Engineers.

N. *Safety belt requirement in passenger vehicles.* The use of seat belts in passenger vehicles shall be mandatory as follows:

- (1) Except as provided in subsection 12-2-10A. and subsection 12-2-10O., of this Traffic Code, all occupants of all passenger vehicles shall have a safety belt properly fastened about his or her body at all times when the vehicle is in motion.
- (2) Evidence of a violation of this section shall be admissible for the purposes of mitigation of damages, apportionment of damages or comparative fault, or other issues as determined by the court, with respect to any person who is involved in an accident and seeks to recover damages for injuries resulting from the accident.
- (3) This section shall not apply to an occupant of a motor vehicle who possess a written statement from a licensed physician that he or she is unable for medical reasons to wear a safety belt, or to a rural letter carrier of the United States Postal Service while performing the duties of a rural letter carrier.

O. *Infant/child passenger restraints.* Any parent, guardian or custodian of an infant or child four (4) years of age or younger, when transporting the child in a noncommercial motor vehicle operated on any roadway of the Pueblo, shall properly secure the child in a child passenger restraint system. The restraint system shall meet Federal Motor Vehicle Safety Standard Number 213, which requires the following information:

- (1) On a permanent label attached to the restraint, the statement, "This child restraint system conforms to all applicable Federal Motor Vehicle Safety Standards" shall be printed; and
- (2) On a permanent label, attached to the restraint, the manufacturer's recommendations of the minimum and maximum weight and height of the children who can safely occupy the system shall be printed; and
- (3) Printed installation instructions with step-by-step procedures, including diagrams of installing the system in a motor vehicle, positioning the child in the system, and adjusting the system to fit the child.
- (4) This section shall not apply to the transportation of students in a school bus.

P. *Sun screening material on windshields and windows.* A person shall not operate a motor vehicle within the Pueblo if that motor vehicle has a sun screening material on the windshield or any window that does not comply with the standards and requirements set under the New Mexico Motor Vehicle Code.

Schedule of Civil Assessments Adopted January 24, 2006	
Resolution No. 03-06	Assessment Amount
Section 12-2-1. General	
(I) Operating Motor Vehicle Without Valid Driver's License, Registration and Proof of Insurance or Financial Responsibility	\$125.00
(J) Failure to Have Driver's License; Failure to Display Same	\$80.00
(K) Driving While License Is Suspended or Revoked	Not less than \$50.00 or More than \$1,000.00
(L) Permitting Unauthorized Person(s) to Drive	\$60.00
(M) Unlawful Use of License	Not less than \$50.00 or More than \$1,000.00
(R) Careless Driving	Not less than \$50.00 or More than \$150.00
(S) Pedestrians Failure to Use of Due Care	\$60.00
(T) Failure to Give Pedestrian Right-of-way in Crosswalks	\$60.00
(U) Failure of Pedestrian Crossing at Other than Crosswalks to Give Right-of-Way to Vehicles in Roadway	\$60.00
(V) Use of Pueblo Roads for Public Event Without Proper Authorization	\$50.00
Section 12-2-2. Accidents	
(A) Failure to Fulfill Requirements Upon Striking Unattended Vehicle	\$250.00
(B) Failure to Fulfill Requirements Upon Striking Fixtures Upon a Roadway	\$150.00
(C), (E) Failure to Provide Notices of Motor Vehicle Accidents to Pueblo Police Department	\$200.00
Section 12-2-3. Speed Regulations	
(1) Up to and Including Ten Miles an Hour over the Speed Limit	\$65.00
(2) From Eleven, up to and Including Fifteen, Miles an Hour over the Speed Limit	\$80.00
(3) From Sixteen, up to and Including Twenty, Miles an Hour over the Speed Limit	\$115.00
(4) From Twenty-one, up to and Including Twenty-five, Miles an Hour over the Speed Limit	\$150.00
(5) From Twenty-six, up to and Including Thirty, Miles an Hour over the Speed Limit	\$175.00
(6) From Thirty-one, up to and Including Thirty-five, Miles an Hour over the Speed Limit	\$200.00
(7) More than Thirty-five Miles an Hour over the Speed Limit	\$250.00
Section 12-2-4. Traffic Control Signs and Signals	

Schedule of Civil Assessments Adopted January 24, 2006 Resolution No. 08-06	Assessment Amount
(A), (C) Disobeying Traffic Control Devices	\$60.00
(D) Display of Unauthorized Signs, Signals or Markings	\$60.00
(E) Interference with Official Traffic Control Devices or Railroad Signs or Signals	\$75.00
Section 12-2-5. Right-of-Way	
(A)—(D) Failure to Properly Yield Right-of-Way When Approaching or Entering Intersections	\$60.00
Section 12-2-6. Driving; Overtaking; Passing	
(A)—(D) Improper Passing (Other than a School Bus)	\$60.00
(E) Improper Overtaking and/or Passing Stopped School Bus	\$150.00
(F) Driving in Improper Lane on Roadways Laned for Traffic	\$60.00
(G) Following Too Closely	\$60.00
(H) Failure to Use Right-Hand Roadway When Driving on Divided Roadways	\$60.00
(I) Entering or Exiting Restricted Access Roadway Except at Officially Established Entrances and Exits	\$60.00
(J) Driving on Wrong Side of Roadway	\$60.00
Section 12-2-7. Stopping, Turning, Starting and Signals on Stopping and Turning	
(A) Failure to Stop or Yield at Signed Intersection	\$60.00
(B) Failure to Stop and Yield When Emerging from Alley or Private Driveway	\$60.00
(C) Failure to Use Reasonable Precaution Approaching Horsedrawn Vehicles and Livestock	\$60.00
(D) Failure to Stop if Required at Railroad Grade Crossings	\$60.00
(E) Improper Turning at Intersection	\$60.00
(F) Turning on Curve or Crest of Grade	\$60.00
(G) Improper Moving of Stopped, Standing or Parked Vehicle	\$60.00
(H)—(J) Improper Turning and/or Failure to Give Proper Signal of Turn or Stop	\$60.00
Section 12-2-8. Stopping, Standing or Parking	
(A), (C) Improper Stopping, Standing or Parking	\$55.00
(D) Unauthorized Parking in Parking Area Designated for the Physically Disabled	\$100.00
Section 12-2-9. Miscellaneous Provisions	
(A) Operating Motorcycle Without Valid Motorcycle License; Riding Motorcycle Improperly; Riding Motorcycle Without Required Protective Eye Device;	\$60.00
Riding Motorcycle Without Safety Helmet	\$75.00

Schedule of Civil Assessments Adopted January 24, 2006	
Resolution No. 03-06	Assessment Amount
(B) Driving Motor Vehicle With Obstruction to Driver's View	\$60.00
(C) Coasting	\$60.00
(D) Placing Litter, Glass or Other Objects on Roadway	\$350.00
(E) Riding Horse or Other Animal on Roadway During Hours of Darkness; Improperly Permitting Livestock on Roadways	\$75.00
(F) Improper Riding Bicycle on Roadway	\$60.00
(G) Improperly Riding in Bed of Pickup Truck	\$55.00
(H) Consumption or Improper Possession of Alcoholic Beverages in Open Containers	\$75.00
(I) Failure to Follow Requirements for Riding on All Terrain Vehicles	\$100.00
Section 12-2-10. Equipment	
(A) Driving or Moving One or More Vehicles in Unsafe Condition so as to Endanger Others	\$70.00
(B) Driving Without Lighted Lamps When Required	\$60.00
(C) Driving Motor Vehicle Without Sufficient Headlamp(s)	\$60.00
(D) Driving Motor Vehicle Without Sufficient Tail Lamp(s)	\$60.00
(E) Driving Motor Vehicle Without Required Lamp or Flag on Projecting Load	\$60.00
(F) Driving Motor Vehicle Without Required Signal Lamps and Signal Devices	\$60.00
(G) Improper Use of Lamps; Unauthorized Use of Flashing Red Lights	\$60.00
(H) Driving Motor Vehicle Without Operable Horn; Unauthorized Use of Horn or Warning Device	\$60.00
(I) Failure to Use Emergency Signals When Vehicle is Stopped on Roadway or Shoulder	\$60.00
(J), (K) Buying, Selling, Leasing, Trading or Transferring Motor Vehicle Without Required Safety Belts	\$75.00
(L) Failure to Use Safety Belts as Requirement in Passenger Vehicle	\$75.00
(M) Failure to Use Infant/Child Passenger Restraints as Required	\$75.00
(N) Operating Motor Vehicle With Prohibited Sun Screening Material on Windshields and Windows	\$75.00

CHAPTER 3. LIQUOR CONTROL

Section 12-3-1. General.

A. Definitions. As used in this chapter the following definitions shall apply unless the context clearly indicates otherwise:

BIA means the Bureau of Indian Affairs, Department of the Interior.

Council means the Pueblo Council.

Governor means the Governor of the Pueblo of Laguna in accordance with Section 1 of Article VI of the Constitution of the Pueblo of Laguna.

Liquor includes the four (4) varieties of liquor commonly referred to as alcohol, spirits, wine and beer, and all fermented, spiritous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spiritous, vinous or malt liquor, or otherwise intoxicating. Every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer.

Minor means any person under the age of twenty-one (21) years of age.

Package means any container or receptacle used for holding liquor.

Person means an individual, whether a member or nonmember of the Pueblo, corporation, firm, partnership, co-partnership, association, enterprise or other legal entity.

Public place includes streets and plazas of Pueblo villages; state, county, Pueblo or federal highways or roads; stores and shopping centers and grounds thereof; government buildings; public buildings; schools; churches; public meeting halls, lobbies and halls of offices, restaurants, theaters, stores, garages, and service stations which are open to and generally used by the public, and grounds thereof; open spaces of the Reservation except for private land, yards, allotments, and land assignments; buses, including school buses, and other public conveyances of all kinds and character, and the depots and waiting rooms used in conjunction therewith; publicly or school-owned parks and/or playgrounds, and all other places of the like or similar nature which are generally used by the public or public schools.

Pueblo means the Pueblo of Laguna.

Pueblo Court means the Pueblo of Laguna Court.

Purchase includes the exchange, barter, traffic, receipt with or without consideration by any means whatsoever, of liquor as defined herein, by any person.

Reservation means all lands subject to the jurisdiction of the Pueblo, including all land held by the United States in trust for Laguna Pueblo and all lands within the exterior boundaries of the Reservation or Pueblo grant, regardless of whether the lands are owned in fee, held in trust by the United States for the Pueblo, or otherwise held.

Sale includes the exchange, barter, traffic, donation with or without consideration, in addition to the selling, supplying or distributing, by any means whatsoever, of liquor, as defined herein, by any person to any person.

B. *Relation to other Pueblo laws.* No Pueblo business licensing law or other Pueblo law shall be applied in a manner inconsistent with the provisions of this chapter.

C. *Prohibition.* The introduction, wholesale purchase, sale and dealing in liquor, other than by the Pueblo or an enterprise of the Pueblo or corporation the majority stock ownership of which is held by the Pueblo which is properly authorized by the Pueblo to deal in liquor sales is prohibited within the Laguna Indian Reservation. Possession of liquor by any person now prohibited by federal law shall be lawful so long as possession is in conformity with this chapter. Federal Indian Liquor Laws (18 U.S.C. § 1161 and § 1154) shall remain applicable to any act or transaction which is not authorized by this chapter and violators of this chapter shall be subject to federal prosecution as well as to legal action in accordance with Pueblo law.

D. *Conformity with state law.* Pueblo standards for liquor transactions shall meet or exceed those required by the State of New Mexico.

E. *Sales.*

- (1) *Sales only by the Pueblo.* No introduction, wholesale purchase or sale of liquor shall be made within the exterior boundaries of the Reservation except by the Pueblo, or by an enterprise of the Pueblo or by a corporation the majority stock of which is held by the Pueblo, authorized to make such wholesale purchase or sale of liquor. Authorization to engage in the wholesale purchase, sale or distribution of liquor shall be made to a qualified entity by resolution of the Pueblo Council.
- (2) *All sales for personal use.* All sales shall be for the personal use of the purchaser and resale for profit of any liquor whether in the original container or not, shall be a violation of this chapter and the violator shall be subject to the penalties described herein. Provided, however, that a Pueblo enterprise authorized to purchase and sell liquor may sell or make arrangements to sell liquor at special events so long as such sale is authorized by the Pueblo Council separately for each event.
- (3) *Authorized sales.* Liquor may be sold in package or by the drink for consumption on the premises as determined in the sole discretion of the Pueblo Council. The license or permit issued shall state whether the license or permit authorizes package sales and/or liquor by the drink sales and if the permit authorizes by the drink whether or not the license is limited to a particular type or types of liquor.
- (4) *No sale to minors.* No sale of any liquor shall be made to any person under the age of twenty-one (21) years of age.
- (5) *Sunday and election day sales.* Sale of liquor may be allowed on Sunday or any Pueblo, state or federal election day to the same extent authorized by the State of New Mexico. No sales should be allowed on any day or any time determined by the Pueblo Council that liquor sales shall be prohibited.
- (6) *Prohibition of sales during emergency.* The Governor may, on an emergency basis and for a period of time not to exceed five (5) business days, by written order, prohibit the sale of liquor until such emergency order can be considered by the Pueblo Council

which may, in its discretion, extend such emergency order for any length of time it determines necessary, or may issue emergency rules, regulations, directions or orders concerning such introduction, possession, sale or purchase of liquor within the Reservation boundaries.

- (7) *Hours of sale.* No sale of liquor shall be made except during the hours allowed by state law.
- (8) *Location of sales.* An entity authorized to sell liquor shall do so only at those locations authorized by the Pueblo Council.
- (9) *Sales to be made by adults.* All handling, stocking, possession or sale of liquor pursuant to this chapter shall be made by persons twenty-one (21) years of age or older.
- (10) *Evidence of age and identity.* Evidence of age and identity of the purchaser must be shown by a current and valid state driver's license which contains the signature, birth date and picture of the holder of the license.
- (11) *Demand for identification.* Any person, business, organization, or other legal entity authorized to sell liquor within the Reservation by Resolution of the Pueblo Council shall have the authority to demand of any person the production of proper evidence of age and identity before making any sales of liquor to such person, if there exists some doubt as to the age of the person.
- (12) *Right to refuse sale.* Any person, business, organization, or other legal entity authorized to sell liquor within the Reservation shall have the authority to refuse to sell liquor to any person who is unable to produce proper evidence of age and identity as prescribed by subsection 12-3-1E.(10) of this chapter, as evidence that such person is twenty-one (21) years of age or older; and shall have the authority to refuse to sell liquor to any person who the seller believes is under the influence of alcohol.

F. *Pueblo property.* The entire stock of liquor referred to under this chapter shall remain the property of the Pueblo or authorized entity until sold.

G. *All sales cash.* Sales by a Pueblo enterprise as defined herein shall be by cash, check or credit card only and no credit otherwise shall be extended to any person, organization or entity.

H. *Illegal activities.*

- (1) *Purchase from or sale to unauthorized person.* It shall be a violation of this chapter for any person within the boundaries of the Reservation to buy liquor from or sell liquor for resale to any person other than a properly authorized Pueblo business enterprise.
- (2) *Sale to minors.* Any person who shall sell, serve or provide any liquor to any minor person shall be in violation of this chapter.
- (3) *Purchase by minor.* Any minor person who shall purchase, attempt to purchase or possess any liquor shall be in violation of this chapter.

- (4) *Sale to person apparently intoxicated.* Any person who knowingly sells liquor to a person who the seller has reason to believe is under the influence of alcohol or any person under the influence of alcohol who shall purchase liquor shall be in violation of this chapter.
- (5) *Drinking in public places.* Any person who shall drink any liquor in a public place shall be in violation of this chapter unless the Council has authorized consumption of liquor at such location.
- (6) *Open containers prohibited.* Any person who shall have an open container of liquor in a public place except for public places where liquor consumption has been authorized by the Council; or who has possession of an open container of liquor in or on a vehicle, or who as a driver knowingly permits an open container of liquor in or on a vehicle, unless said vehicle is not in a public place or location where liquor consumption has been authorized by the Council, shall be in violation of this chapter.
- (7) *Proof of unlawful sale.* In proceeding under this chapter, proof of one (1) unlawful sale of liquor shall suffice to establish prima facie the intent or purpose of unlawfully keeping liquor for sale or selling for resale in violation of this chapter.
- (8) *Use of false or altered identification.* Any person who attempts to purchase liquor through the use of false or altered identification which falsely purports to show the individual to be over the age of twenty-one (21) shall be in violation of this chapter.
- (9) *Defense to action for sale to minors.* It shall be a defense to an alleged violation of this chapter for selling liquor to a minor person if such purchaser has presented identification in accordance with this chapter showing the purchaser's age to be over twenty-one (21) years. In addition to the presentation of identification by the purchaser in accordance with this chapter, such as a driver's license, the person selling, if still in question of the purchaser's age, may require the purchaser to print his or her name on a file card, sign and date the card. Such card shall be filed alphabetically in a file box and be subject to examination by the members of the board of the enterprise authorized to sell liquor or their delegates, or by any BIA or Pueblo Law Enforcement Officer, any designated employee of the Pueblo, employees of the Pueblo enterprise authorized to sell liquor, and by the Governor of the Pueblo or his delegate. Such card in the possession of the Pueblo business enterprise authorized to sell liquor may be offered as a defense in any hearing held by the Pueblo Court for sale to the person who signed the card and may be considered by the court as evidence that the Pueblo business enterprise and its employees acted in good faith.

I. *Excise tax levy.*

- (1) *Excise tax levied.* There is hereby levied and shall be collected an excise tax upon each sale of liquor in whatever package or container in the amount of five (5) percent of the selling price. Said excise tax shall be added to the sales price of the liquor sold and

shall be paid by the buyer to the business enterprise selling liquor which shall collect the same and hold such amounts for the Pueblo until deposited as provided for in this chapter.

- (2) *Deposits.* The taxes collected shall be submitted at least monthly to the Treasurer of the Pueblo who shall upon receipt deposit the same to a special account or fund of the Pueblo. The transfer shall report said tax collections, expenditures and the status of such special account or fund to the Governor and Pueblo Council at least quarterly.
- (3) *Use of revenues.* Tax revenues shall be used for the benefit of the Reservation and Pueblo community. In appropriating these tax revenues, the Council shall give priority to:
 - (a) Strengthening Pueblo Government, which shall include, but not be limited to, strengthening the Pueblo Justice System enforcing this chapter.
 - (b) Health, education and other social services programs.
 - (c) Alcohol and drug abuse prevention activities and community services which relate specifically to the needs of the Pueblo.
 - (d) The Pueblo Council shall in its discretion determine which of the above priorities shall receive an appropriation and the amount of such appropriation.
- (4) *Modification of tax.* The amount and type of taxes levied by this section may be modified from time to time by Resolution of the Pueblo Council with or without notice or public hearing.

J. *Sovereign immunity preserved.* Nothing in this chapter is intended or shall be construed as a waiver of the sovereign immunity of the Pueblo. No officer, manager or employee of an enterprise of the Pueblo shall be authorized, nor shall he attempt to waive the sovereign immunity of the Pueblo.

K. *Penalty.* Any person, or entity purchasing, possessing, selling, bartering, or manufacturing liquor products in violation of any part of this chapter, rule or regulation adopted pursuant to this chapter shall be subject to a civil fine or not more than five hundred dollars (\$500.00) for each violation. In addition, persons or entities subject to criminal prosecution by the Pueblo who purchase, possess, sell, barter, or manufacture liquor products in violation of any part of this chapter, or any rule and regulation adopted thereunder, shall be subject to punishment not to exceed six (6) months imprisonment or to a fine not to exceed five hundred dollars (\$500.00) or to both such improvement and fine or as otherwise provided in the Pueblo Code. All contraband merchandise shall be confiscated by the Pueblo and disposed of as directed by the Pueblo Court.

L. *Disclaimer.* Nothing in this chapter shall be construed to authorize or require the criminal trial and punishment of non-Indians except to the extent allowed by any applicable present or future Act of Congress or any applicable federal court decision.

M. *Regulations.* The Council shall have the authority to adopt and enforce rules and regulations to implement this chapter and to further the purposes thereof.

N. *Amendment.* This chapter may be amended by majority vote of the Pueblo Council subject to approval by the Secretary of Interior, if required, except for the modifications allowed by resolution in subsection 12-3-1I.(4), which shall not be subject to Secretarial approval.

Section 12-3-2. Rules and regulations.

A. *Objective.* These regulations set forth general requirements for the implementation of section 12-3-1.

B. *Definitions.* The definitions of terms set forth in this chapter apply in these regulations, except when the context clearly indicates a different meaning. When used in these regulations, the term:

Governor means the duly elected Governor of the Pueblo of Laguna.

Hearing officer means an individual authorized by the Pueblo Council to conduct disciplinary hearings under these regulations.

Liquor retailer license means a license issued by the Pueblo Secretary to a retailer to purchase liquor from a licensed New Mexico wholesaler and to sell liquor for resale by the package or by the drink to customers within the Reservation.

Liquor wholesaler license means a license issued by the Pueblo Secretary to a New Mexico wholesaler to import, sell, and distribute liquor to a licensed retailer within the Reservation.

Moral turpitude means an act of baseness, vileness, or depravity in the private and social duties that a person owes to another person or to society in general which is contrary to the accepted and customary rule of right and duty between person and person, including, but not limited to, embezzlement, murder, sex crimes, conspiracy to commit a crime, defrauding the government and illegal drug sales.

New Mexico wholesaler means a person holding a valid wholesaler's license issued by the state pursuant to the New Mexico Liquor Control Act.

Pueblo Council means the Governing Body of the Pueblo of Laguna.

Pueblo Secretary means the duly elected Secretary of the Pueblo of Laguna or his or her designee.

Retailer means a wholly owned enterprise or corporation of the Pueblo.

Server permit means a permit issued by the state to a person to be employed or engaged to sell serve, or dispense liquor.

Special event means a public celebration or event within the Reservation.

State means the Alcohol and Gaming Division of the New Mexico Licensing and Regulation Department.

C. Revocable privilege.

- (1) Any license issued by the Pueblo Secretary is a revocable privilege, and no person holding a license shall be deemed to have acquired any vested property rights in or under the license.
- (2) The applicant, at all times, bears the burden of proving its qualification to hold a license. An applicant accepts any and all risk of adverse public notice, embarrassment, criticism, or other action or financial loss that may result from the application process, and the applicant expressly waives any and all claims for damages as a result thereof.
- (3) An application for a license constitutes a request to the Pueblo Secretary for a decision on the applicant's general suitability, character, integrity, and ability to import, sell, dispense, or distribute liquor within the Reservation. By filing an application with the Pueblo Secretary, the applicant specifically consents to the making of that decision by the Pueblo Secretary and to the jurisdiction of the Pueblo.

D. Minors. A minor may not sell, serve, dispense or handle any liquor within the Reservation.

E. Server permit.

- (1) Every person directly involved in selling, dispensing, or serving liquor on the Reservation shall have a valid server permit in possession when engaged in such activity.
- (2) A license retailer shall not employ or engage any person to sell, dispense or serve liquor on the Reservation unless that person holds a valid server permit.

F. Preemption. The licensing of any person under this chapter shall be governed exclusively by this chapter and these regulations. Any person issued a license by the Pueblo Secretary under this chapter and regulations shall not be subject to or bound by any conflicting or additional requirements imposed by any board, commission, or other agency of the Pueblo.

G. Notice. Notice or service of any document required under these regulations shall be satisfied by personal service or by certified or regular mail to the last known address of the respondent. All documents served on or filed with the Pueblo Secretary shall be addressed to Pueblo of Laguna c/o Pueblo Secretary, P.O. Box 194, Laguna Pueblo, New Mexico 87026.

Section 12-3-3. Authority of the Pueblo Secretary.

A. Objective. This regulation sets forth the authority of the Pueblo Secretary to administer this chapter.

B. Authority.

- (1) Until such time a taxation and licensing department is established by the Pueblo, the Pueblo Council delegates exclusive authority to the Pueblo Secretary over all matters relating to:
 - (a) The issuance, denial, suspension, and revocation of licenses under this chapter;

- (b) The investigation and enforcement activities, including imposing penalties, imposing and collecting fines and issuing notices of violation, required under this chapter and the regulations; and
 - (c) The regulation of liquor and administration of this chapter.
- (2) The Pueblo Secretary may conduct a background investigation of a New Mexico wholesaler when necessary to protect the public health, safety and morals of the Reservation.
 - (3) The Pueblo Secretary may recommend regulations implementing this chapter for approval by the Pueblo Council.

C. *Subpoenas.* The Pueblo Secretary may require by subpoena the production of relevant records, books, information, evidence or other documents and the presence and testimony of any person relating to any matter under consideration or investigation. An applicant and licensee shall comply with any subpoena issued by the Pueblo Secretary. If an applicant or licensee, or any employee or principal of an applicant or licensee, refuses or fails to comply with a request or subpoena, then that person's license or application may be suspended, revoked, or denied, based solely upon such failure or refusal.

D. *Decisions of the Pueblo Secretary.* Any decision of the Pueblo Secretary to issue, deny, suspend and revoke a license under this chapter or to enforce this chapter and regulations may be appealed pursuant to section 12-3-6.

E. *Annual report.* The Pueblo Secretary shall provide to the Pueblo Council an annual report of all its activities for the preceding year.

Section 12-3-4. Liquor wholesalers.

A. *Objective.* This regulation governs the issuance and renewal of liquor wholesaler licenses to New Mexico wholesalers to sell and distribute liquor within the Reservation.

B. License.

- (1) A liquor wholesaler license issued by the Pueblo Secretary entitles a New Mexico wholesaler to import, sell and distribute liquor directly to a licensed retailer within the Reservation.
- (2) All liquor wholesaler licenses shall have a term of one (1) year beginning on September 1 and expiring on August 31 of each year.

C. Application and renewal requirements.

- (1) A New Mexico wholesaler seeking a liquor wholesaler license shall submit a written application and the following to the Pueblo Secretary:
 - (a) A copy of its current wholesaler's license issued by the state under the New Mexico Liquor Control Act;

- (b) A certificate of good standing issued by the state, showing, as of the date of the application for license, that the New Mexico wholesaler is in compliance with the New Mexico Liquor Control Act;
 - (c) A nonrefundable application fee of fifty dollars (\$50.00);
 - (d) An initial license fee of two thousand five hundred dollars (\$2,500.00), or, if the New Mexico wholesaler is renewing its liquor wholesaler license, a renewal license fee of one thousand two hundred fifty dollars (\$1,250.00); and
 - (e) A certificate of public liability insurance.
- (2) A New Mexico wholesaler seeking to renew its liquor wholesale license shall file its license renewal application on or before July 15 of each year. The Pueblo Secretary shall process all renewal applications by no later than August 15 of each year.
 - (3) The Pueblo Secretary may prorate the initial license fee if the New Mexico wholesaler is issued a liquor wholesaler license for less than one (1) year.

D. Qualifications.

- (1) The Pueblo Secretary may not issue a liquor wholesaler license to a New Mexico wholesaler who:
 - (a) Has been convicted of a felony under any federal or state law;
 - (b) Does not possess a current wholesalers license issued by the state;
 - (c) Has been convicted of a crime of moral turpitude; or
 - (d) Has violated any federal, state, local, or Pueblo liquor law, chapter or regulation.
- (2) Before a liquor wholesaler license may be granted to, or renewed by, a New Mexico wholesaler, the Pueblo Secretary shall determine that the New Mexico wholesaler has complied with all the qualifications and requirements for making an application or renewal application for license under this chapter and these regulations. The Pueblo Secretary may consider any other reasonable factors and circumstances he or she deems to be necessary.

E. Background investigation. Except as provided in these regulations, a New Mexico wholesaler holding a current wholesaler's license issued by the state shall not be subject to a background investigation by the Pueblo Secretary.

F. Operational restrictions.

- (1) A New Mexico wholesaler issued a liquor wholesaler license, and its employees and management personnel, shall:
 - (a) Not import, sell or distribute any liquor manufactured by any person who is not licensed by the state;
 - (b) Not import, sell or distribute liquor to any person within the Reservation except a licensed retailer;

- (c) Not import, sell or distribute any liquor within the Reservation that is prohibited by the state;
 - (d) Immediately notify the Pueblo Secretary of any change in its status as a New Mexico wholesaler or any actions taken by the state affecting its wholesaler's license issued by the state; and
 - (e) Immediately suspend its operations within the Reservation until the Pueblo Secretary issues a renewed liquor wholesaler license.
- (2) The failure to comply with this chapter and the regulations may result disciplinary action against the licensee and individual employees or management personnel of the licensee.

Section 12-3-5. Special event permits.

A. *Objective.* This regulation sets forth the requirements for permits to sell liquor by the drink at a special event within the Reservation.

B. *Permit.*

- (1) The Pueblo Secretary may issue a special event permit only to a licensed retailer.
- (2) The special event permit entitles a licensed retailer to store, sell and serve liquor by the drink for a period not to exceed four (4) consecutive days at a special event.
- (3) The licensed retailer shall display a copy of the special event permit at the location where liquor by the drink is being served.

C. *Application requirements.*

- (1) A licensed retailer seeking a special event permit shall submit a written application and the following to the Pueblo Secretary:
 - (a) The times, dates, location, estimated attendance, security to be provided, and purpose of the special event; and
 - (b) A drawing showing the location in which liquor will be stored, the location where liquor will be sold or served and the location where liquor will be consumed.

D. *Notice to Pueblo Law Enforcement.* Upon approval of a special event permit, the Pueblo Secretary shall send a copy of the approved application and the special event permit to Pueblo Law Enforcement before the special event.

E. *Special operating requirements.*

- (1) The following special operating requirements apply to a special event permit:
 - (a) All individuals involved in storing, selling or serving liquor at a special event shall do so under the supervision and direction of the licensed retailer.
 - (b) All individuals involved in selling or serving liquor at the special event may not, while on duty, consume liquor or be intoxicated.
 - (c) The attendees at the special event may not bring any liquor into the special event.

- (d) Liquor purchased for the special event may not be stored, sold, served or consumed in any location other than the locations specified in the application and the special event permit.
- (e) Liquor may not be sold, served or otherwise furnished at a special event to any:
 - (i) Minor; or
 - (ii) Person actually, apparently, or obviously intoxicated.
- (f) The licensed retailer shall not advertise or offer free liquor in connection with a special event.
- (g) The licensed retailer shall not permit an attendee at a special event to carry an open container of any liquor from the premises.
- (h) Every person employed or engaged to sell, serve or dispense liquor holds a valid server permit.

F. Records. The licensed retailer shall maintain records showing the amount of taxes due to the Pueblo and the revenue from sale of liquor by the drink at the special event.

Section 12-3-6. Disciplinary proceedings.

A. Objective. This rule sets forth the penalties that may be imposed by the Pueblo Secretary and the procedure for disciplinary proceedings under the jurisdiction of the hearing officer.

B. Penalties.

- (1) The Pueblo Secretary may impose any of the following penalties for a violation of this chapter or the regulations:
 - (a) A letter of reprimand;
 - (b) The suspension of a license for up to six (6) months;
 - (c) The revocation of a license;
 - (d) Imposition of a monetary fine, not to exceed one thousand dollars (\$1,000.00) per violation; and
 - (e) An order prohibiting an officer, employee or agent of a licensee in course of employment with a licensee from wholesaling, serving, selling, distributing, warehousing, manufacturing or handling liquor within the Reservation.
- (2) Any action by the state suspending or revoking the license of any New Mexico wholesaler also holding a liquor wholesaler license, shall automatically result in the immediate suspension or revocation of the liquor wholesaler license. In such case, the New Mexico wholesaler may apply for reinstatement of its liquor wholesaler license when the state lifts the suspension or revocation of its New Mexico wholesaler's license.

C. *Consent to jurisdiction.* The submission of an application for license, acceptance of a license, or renewal of a license by the licensee constitutes an agreement on the part of the licensee to: (i) be bound by all laws and regulations of the Pueblo; and (ii) the jurisdiction of the Pueblo.

D. *Hearing officer.*

- (1) A hearing officer must possess a law degree from an accredited law school within the United States and be experienced in federal Indian law, including liquor regulations.
- (2) The Governor shall recommend appointment of a hearing officer subject to the consent of the Pueblo Council.

E. *Disciplinary proceedings.*

- (1) The Pueblo Secretary shall initiate disciplinary proceedings by issuing a notice of violation to the licensee, which shall set forth:
 - (a) The alleged violation of this chapter or the regulations, together with sufficient facts to put the licensee on notice of the alleged violation;
 - (b) The penalty; and
 - (c) A statement that the licensee may appeal the notice of violation by filing a written request for an informal hearing and a copy of the notice of violation with the hearing officer at the following address within ten (10) business days of receiving the notice of violation: Office of the Governor, P.O. Box 194, Laguna, New Mexico 87026.
- (2) Within a reasonable time after receiving a request for informal hearing, the hearing officer shall notify the licensee and the Pueblo Secretary in writing of the date, time and place of the informal hearing at least thirty (30) days before the informal hearing. The failure of the licensee to appear at the informal hearing shall be grounds for default and shall waive both the right to contest the allegations and the right to the informal hearing.
- (3) At any time before the informal hearing, the hearing officer may hold a settlement conference with the Pueblo Secretary and the licensee to encourage resolution of any matter raised in the notice of violation.
- (4) Formal rules of evidence shall not apply in any informal hearing; however, the hearing officer may exclude evidence that is irrelevant, immaterial, or repetitious, but may not exclude evidence solely because it is hearsay.
- (5) Discovery is prohibited.
- (6) Unless otherwise directed by the hearing officer, the order of procedure and presentation of the evidence shall be as follows: (a) Pueblo Secretary; (b) licensee; and (c) rebuttal by the Pueblo Secretary. The hearing officer may set reasonable time limits for the presentation of the evidence.

- (7) The hearing officer may permit the licensee and the Pueblo Secretary to make oral arguments or submit briefs or both based on a schedule set by the hearing officer.
- (8) The hearing officer shall not set aside a notice of violation unless it finds the Pueblo Secretary's action to have been arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.
- (9) Within a reasonable time after the informal hearing, the hearing officer shall issue a written order to both the licensee and the Pueblo Secretary that includes the following:
 - (a) The decision;
 - (b) Findings of fact;
 - (c) The reasons for the decision; and
 - (d) Conclusions of law.

F. *Effect of hearing officer's decision.* The decision of the hearing officer is final and is not subject to further appeal.

G. *Report.* The hearing officer shall provide a copy of all final decisions adverse to a New Mexico wholesaler to the state.

Section 12-3-7. Forms.

A. *Objective.* This regulation sets forth the various forms to be used by the Pueblo Secretary.

B. *Forms.* The Pueblo Secretary shall prepare all forms required by these regulations and this chapter. The Secretary may amend the forms at anytime to carry out the purposes of this chapter and these regulations.

Form 1**APPLICATION/RENEWAL FOR
LIQUOR WHOLESALER LICENSE**

1. Applicant's Business Name: _____
2. Address: _____
3. Phone: _____ Fax: _____
4. Contact Person: _____
5. Type of Ownership: ☐ Individual ☐ Partnership ☐ Corporation
☐ Limited Liability Company ☐ Other: _____
6. Please submit the following information and documentation:
 - a. Copy of the applicant's New Mexico Wholesaler License
 - b. A certificate of good standing issued by the state, showing, as of the date of the application or renewal for license, that the New Mexico wholesaler is in compliance with the New Mexico Liquor Control Act;
 - c. A non-refundable application fee of Fifty Dollars (\$50.00);
 - d. An initial license fee of One Thousand Dollars (\$1,000.00), or, if the New Mexico wholesaler is renewing its liquor wholesaler license, a renewal license fee of Seven Hundred Fifty Dollars (\$750.00); and
 - e. A certificate of public liability insurance.
7. Applicant agrees, as a condition of licensing, to abide by the provisions of the Pueblo of Laguna Liquor Ordinance No. 300-86, as amended, and all regulations implementing this Chapter; understands that failure to adhere thereto or to no longer possess qualifications to hold a license may result in suspension or revocation of the license; and consents to the jurisdiction of the Pueblo of Laguna.
8. Applicant agrees to immediately notify the Pueblo Secretary of any change in its status as a New Mexico wholesaler or any actions taken by the State of New Mexico affecting its wholesaler's license issued by the state.
9. The undersigned acknowledges that he/she has read and understands the statements made herein, and that execution hereof is done voluntarily and by authorization of the applicant/organization, and that any false statement made on this application or any related document may result in the revocation of the license.
10. The undersigned hereby makes application to the Pueblo of Laguna for a liquor wholesaler license and certifies the information contained herein and attached hereto is true and correct.

Dated this ____ day of _____, 200__

Applicant

Authorized Signature

Name/Title

STATE OF _____

COUNTY OF _____

Subscribed & sworn to before me this ____ day of _____, 200__

Notary Public

Form 2**APPLICATION FOR
SPECIAL EVENT PERMIT**

1. Name of Retailer: _____
2. Address: _____
3. Phone number: _____ Fax: _____
4. Contact Person: _____
5. Name of event: _____
6. Location of event: _____
7. Purpose of event: _____
8. Date(s) and hours of event: _____
9. Drink prices: _____
10. Expected Attendance: _____
11. Name of person or group catering the even (if different from Retailer):

12.
 - a. Is there at least one location where those wanting to purchase alcoholic beverages must show proof of age? ☐ YES ☐ NO
 - b. Are alcoholic sales and dispensing location(s) separate from food and non-alcoholic beverage concession locations? ☐ YES ☐ NO
 - c. Are alcoholic beverages served in readily identifiable cups or containers distinct from those used for non-alcoholic beverages? ☐ YES ☐ NO
 - d. Will only persons who possess alcohol server permits be selling and dispensing liquor by the drink at alcoholic sales and dispensing location(s) at the event? ☐ YES ☐ NO
 - e. Will minors be attending the event? ☐ YES ☐ NO
 - f. If minors may attend the event, will all dispensing and consumption of liquor by the drink in a designated, confined and restricted area where minors are not allowed without being accompanied by a parent or guardian, and where alcohol consumption may be closely monitored? ☐ YES ☐ NO ☐ Does not apply (no minors)
 - g. Please provide a list of any additional control measures that will be taken at the event to reduce the possibility of minors being furnished alcohol and adults being over-served alcohol at the event (use a separate sheet of paper or drawing if necessary).

13. Please provide information about the security to be provided at the location where liquor by the drink will be served at the event:

14. The undersigned hereby makes application to the Pueblo of Laguna for a special event permit and certifies the information contained herein and attached hereto is true and correct.

Dated this _____ day of _____, 200__

Applicant/Retailer

Authorized Signature

Name/Title

CHAPTER 4. EXCLUSION OR REMOVAL**Section 12-4-1. Scope of chapter.**

This chapter shall apply to nonmembers of the Pueblo who commit acts, including traffic offenses, punishable under the laws of the Pueblo or of the United States. This chapter also applies to nonmembers who commit acts set forth in subsection 12-4-3D., whether or not such acts are punishable under the laws of the Pueblo or of the United States.

Section 12-4-2. Person subject to exclusion and removal.

A nonmember of the Pueblo may be excluded from the Reservation after hearing and the entry of an exclusion order, or, in cases involving immediate danger to the public health or safety, pending such a hearing, on order of a judge of the Pueblo Court.

Section 12-4-3. Grounds for exclusion and removal.

A person may be subject to exclusion and removal from all or any portion of the Reservation when:

- A. The nonmember is accused of conduct, including traffic offenses, within the Reservation which would be punishable under the laws of the Pueblo or the United States if committed by a member of the Pueblo; and
- B. The nonmember declines to give written consent to the criminal jurisdiction of the Pueblo Court with respect to the conduct complained of; and
- C. The nonmember either admits the conduct in the exclusion proceeding, or is found by a preponderance of the evidence in the exclusion proceeding to have committed the act in question; or
- D. When the nonmember either admits in an exclusion proceeding or is found by preponderance of the evidence presented in an exclusion proceeding to have engaged in any of the following acts:
 - (1) Interference with Pueblo ceremonies, shrines or religious affairs;
 - (2) Repeated acts which threaten to place the health, safety, welfare or peace of the Pueblo in jeopardy;
 - (3) Abuse of privileges granted by the Tribe and/or misuse of Pueblo Lands;
 - (4) Unauthorized prospecting;
 - (5) Unauthorized mining, timber cutting, wood hauling, or other activity causing physical loss or damage of any nature to Pueblo property;
 - (6) Commission of a crime, as defined by state or federal law;
 - (7) Immorality;
 - (8) Forcing entry into any Pueblo home without consent of the occupant or occupants;
 - (9) Unauthorized trading;

- (10) Commission of fraud, confidence games, or usury against Pueblo of Laguna people, or inducing them to enter into grossly unfavorable contracts of any nature;
- (11) Breach of the peace, or repeated public drunkenness;
- (12) Giving venereal disease or HIV virus to another;
- (13) Habitual violation of traffic regulations;
- (14) Entering an area of the Reservation in violation of an order of the Governor, Pueblo Council, or appropriate village official designating such area closed because of fire hazard or for any other reason;
- (15) Sale, possession or manufacturing of dangerous drugs; or
- (16) Any other activity which affects the health, safety, welfare, peace or tranquility of the Pueblo people or the Reservation.

Section 12-4-4. Proceedings for exclusion and removal.

A. Whenever the Pueblo Court, based upon information presented to it, determines that grounds exist for the exclusion and/or removal of a person from the Reservation, the court shall order the immediate exclusion and/or removal and provide for notice of hearing and right of appeal as set forth herein.

B. Whenever the exclusion and/or removal of a person is ordered, the person shall be served with a notice of such action. Such notice shall state the nature and extent of the exclusion and/or removal so ordered and it shall inform the person that once he has complied with the order, he may immediately petition the Pueblo Court for a hearing to reconsider the order, that he may be represented by counsel at such hearing, and present evidence in his own defense, and shall inform him that his compliance with such order may be enforced by Pueblo Police Officers. A copy of the order shall be served with a notice and such service may be accomplished by personal service, or if personal service is not reasonably possible, by mailing to the person by certified mail, return receipt requested, at his last known address.

C. Upon receipt of a petition for hearing, the Pueblo Court shall schedule a hearing to allow the person to present evidence. Such hearing shall be held within two (2) weeks of the receipt of the petition, provided; however, that the order of exclusion and/or removal shall remain in force pending hearing and a decision thereon, except for purposes of attending a hearing.

Section 12-4-5. Findings of the court.

Following the hearing the Pueblo Court shall enter its findings based upon the evidence submitted and, if the evidence will support a finding for exclusion, shall enter its judgment accordingly. The judgment may be appealed as in the same manner as any other judgment of the Pueblo Court in accordance with the rules of procedure of the court of appeals.

Section 12-4-6. Review of orders of exclusion and removal.

A. The court of appeals shall have exclusive authority to hear appeals from orders of exclusion and/or removal after a hearing has been held thereon before the Pueblo Court.

B. The court of appeals shall have authority to stay an order of exclusion and removal upon such conditions of security as it deems just only if all prior hearing remedies have been exhausted, and only if no substantial interest of the Pueblo, its members, or other residents of the Reservation will be harmed.

C. All orders of exclusion and removal shall remain in full force and effect during periods of hearing or review unless stayed as provided herein.

Section 12-4-7. Suspension or removal of exclusion order.

An exclusion order may be for a definite period or may, under appropriate circumstances, be permanent. Any nonmember who has been excluded may petition the Pueblo Council for modification of the exclusion order. No petition will be considered if filed within thirty (30) days after issuance of the exclusion order. If a petition is denied, no new petition may be filed for ninety (90) days following the date of denial. The Pueblo Council may modify an exclusion order for good cause shown and its decision shall be final and not appealable.

Section 12-4-8. Damages and costs.

Any nonmember ordered excluded from the Reservation may be found liable for any damages caused by his or her actions and for reasonable costs associated with the exclusion proceeding. If such person is unable to pay such damages and costs, then a bond may be posted in an amount sufficient to cover such expense. In lieu of a bond, the police are authorized to impound any personal property, which is not community property (unless the spouse is also subject to exclusion). If assessed costs and damages have not been paid within ninety (90) days of the date of the exclusion order the court may order the police to conduct a commercially reasonable sale of the property. After payment of assessed costs and damages and the costs of the sale are deducted, any excess funds shall be refunded to the excluded person.

Section 12-4-9. Protective custody.

Any nonmember subject to exclusion or ejection, as hereinafter provided, who is under the influence of intoxicating liquor or drugs, shall be detained in the Pueblo Rehabilitation Center or such other appropriate facility for no less than four (4) hours, nor more than eight (8) hours prior to exclusion or ejection. An exception may be made where matters of health are concerned.

Section 12-4-10. Emergency removal without court order.

Nothing herein shall preclude a duly commissioned officer of the police department from ejecting any person from the Reservation when the officer is of the considered opinion that

there is a clear and present danger of immediate harm to person or property and that any delay in removing and/or excluding a person from the Reservation would be detrimental to the health, safety or welfare of the Tribe or any of its members.

CHAPTER 5. GOOD SAMARITAN

Section 12-5-1. Liability.

A. No Pueblo member or employee who administers emergency care in good faith at or near the scene of any emergency, as defined herein, or between the time of initial contact at the scene of such emergency and delivery of an injured person to a health care facility or the care of another, shall be held liable for any civil damages as a result of any action or omission by such person administering said care, except for gross negligence.

B. "Emergency" means an unexpected occurrence involving injury or illness to a person or persons, including motor vehicle accidents and collisions, disasters, and other accidents of similar nature occurring either within the Pueblo boundaries or outside the exterior boundaries of the Pueblo.

CHAPTER 6. TRESPASS

Section 12-6-1. Statement of purpose.

Pueblo Land is reserved for use by Pueblo members pursuant to Pueblo law, custom and tradition, unless consent to use the land is authorized by the Pueblo Council, Pueblo law or tradition and the authorized use is set forth in an approved easement, right-of-way, lease, license, use agreement, access permit, business agreement or such other appropriate document. Trespass on Pueblo Lands is against Pueblo and federal law. This chapter is intended to define a process for resolving trespasses and impose civil penalties for trespass.

Section 12-6-2. Definitions.

Business agreement means an agreement between the Pueblo or its entities and a third party to accomplish a specific business purpose which includes the right to use Pueblo Land and which has been approved by the Pueblo Council.

Easement means the right to the beneficial use of the land that is not inconsistent with the use of the land by the Pueblo and its members and is set forth in an easement agreement, which, if required, is approved by the Secretary.

Enforcement official means a law enforcement officer, staff officers, Mayordomo or such other Pueblo official authorized by the Pueblo to enforce Pueblo laws, customs or traditions related to use of Pueblo Land and this chapter.

Individual trust allotments means allotments within the Reservation granted to Pueblo members ("allottees") and held in trust by the United States for the allottees.

Lease means the right to possession of property for a specified use and period of time, set forth in a lease agreement approved by the Pueblo Council, and if required, approved by the Secretary.

Nonmember resident means a nonmember who is authorized by the Pueblo to reside on Pueblo Lands provided that the individual complies with Pueblo requirements regarding such residency.

Person means any individual, corporation, partnership, or other entity.

Police or law enforcement officer means every officer duty authorized or commissioned by the authority of the Pueblo to direct or regulate traffic or to enforce or to make arrests for violations of the Pueblo Traffic Code.

Pueblo Council means the Governing Body of the Pueblo of Laguna.

Pueblo cultural resources means objects of cultural patrimony, sacred objects, funerary objects, cultural artifacts, shrines, pot shards and cultural items protected by Pueblo law, tradition and custom or federal law.

Pueblo Lands means all lands subject to the jurisdiction of the Pueblo, including all land held by the United States in trust for Laguna Pueblo and all lands within the exterior boundaries of the Pueblo of Laguna Reservation or Pueblo grant, regardless of whether the lands are owned in fee, held in trust by the United States for the Pueblo, or otherwise held.

Right-of-way means the right to use Pueblo Lands pursuant to the consent of the Pueblo Council and a valid grant of right-of-way by the Secretary or his authorized representative, or the Pueblo, under applicable Pueblo and federal law and regulations.

Secretary means the Secretary of the Interior or his or her designee authorized to approve or issue leases or right-of-ways over Pueblo Lands.

Superintendent means the Superintendent of the Laguna Agency, Bureau of Indian Affairs, Department of the Interior or successor agency.

Trespass means:

- (1) Entering upon, crossing, occupying or using Pueblo Lands for any purposes whatsoever without the consent of the Pueblo Council;
- (2) Operating on, crossing or using property located on an expired, cancelled or invalid right-of-way, easement, lease, business or use agreement, which includes holding over on, failing to vacate, or failing to cease the use of Pueblo Land, a right-of-way, easement or lease and any improvements thereon, after the expiration or cancellation or invalidation of a lease, right-of-way or easement; or
- (3) Entering on Pueblo Lands for any unauthorized purpose including, but not limited to poaching, searching or retrieving cultural resources, riding vehicles or animals on lands or roads that are not open to the general public or viewing traditional and ceremonial activities that are not open to nonmembers or the general public.

- (4) Trespass does not include use of individual trust allotments if such use has been authorized by the allottees and is not contrary to Pueblo law.

Trespasser means a nonmember individual found to be in trespass on Pueblo Lands.

Use agreement, license or access permit means the temporary right to use the land for a specific purpose and as may be limited in the use agreement or license.

Section 12-6-3. Trespass prohibited.

Trespasses on Pueblo Lands are hereby prohibited. Any person who trespasses on Pueblo Lands or permits his or her animals to trespass shall be subject to the penalties and other provisions set forth in this chapter and available by law. The trespass penalties set out herein do not preclude prosecution of the trespass under applicable federal law.

Section 12-6-4. Enforcement of trespasses on expired right-of-ways or other land use agreements.

A. *Notice of trespass.* The Governor of the Pueblo shall serve, or cause to be served, a written notice of trespass on any person trespassing on Pueblo Land on an expired right-of-way or other land use agreement. The notice shall be delivered either in person, by mail or electronically to the last known electronic or mailing address of the person in trespass. The notice shall specify the action to be taken by the person to correct the trespass, the time limits within which to correct such action and any penalties imposed. The Governor shall deliver a copy of the notice of trespass to the Superintendent. Failure to provide notice to a trespasser does not waive the Pueblo's right to enforce this chapter or impose penalties from the date of trespass.

B. *Assessment of penalties and equitable relief.* The Governor shall serve, or cause to be served, the person trespassing with a written notice of assessment of penalties separately or along with the notice of trespass either in person or by mailing the assessment notice to the last known address of the person in trespass. The assessment shall be due and payable to the Pueblo within twenty (20) calendar days of the notice of assessment. Failure to pay any penalty imposed shall be considered an additional violation of this chapter and grounds for exclusion from Pueblo Lands and seizure of property on Pueblo Lands.

Section 12-6-5. Enforcement of all other trespasses.

A. *Trespassing by individuals.* If nonmembers or nonresidents are found trespassing on Pueblo Lands, they may be stopped by a Pueblo official authorized to prevent trespasses. The trespasser shall be given an assessment and notice of the right to appeal the assessment in Pueblo Court. The Pueblo official may thereafter immediately exclude the trespasser from Pueblo Lands. Nonmember residents may be excluded only pursuant to the Pueblo's Exclusion Ordinance, section 12-4-1, et seq. If necessary, a Pueblo official may request assistance of law enforcement to accomplish the exclusion.

B. *Pueblo property.* If the trespasser is in possession of any cultural resources or other property of the Pueblo which the person is not authorized to possess, the Pueblo official shall seize such items, and notify law enforcement so as to impound them until the court date. If the item is perishable, the law enforcement shall take such action as is necessary to preserve a record of the evidence, and dispose of the resource in a responsible manner.

C. *Trespassing by animals.* If animals that are not authorized to be on Pueblo Lands are found grazing or otherwise loose on Pueblo Lands, a law enforcement officer or other authorized official shall impound the animals and follow the procedures set out in the Grazing Ordinance, section 10-1-13. The trespass penalty set forth in section 12-6-7 below, shall apply in addition to the trespass penalty set forth in title X, chapter 1, Grazing.

Section 12-6-6. Enforcement by United States.

The United States, through the appropriate agencies, shall enforce or cause to be enforced the provisions of any applicable federal law or regulations governing trespass on Pueblo Lands in addition to the provisions of this chapter.

Section 12-6-7. Civil penalties.

A. In addition to the remedial action provided for under this chapter, the civil penalty for trespassing on Pueblo Lands for each day of the trespass shall be assessed in the following amounts:

- (1) 1.45 cents (\$.0145) per kilowatt hour transmitted through electrical lines on expired or invalid rights-of-way, easements or leases that are in trespass increasing annually as of January 1 of each year beginning in 2008, using the GDP rate of inflation as published by the U.S. Commerce Department;
- (2) Fifteen (15) percent of the Average Daily Gas Price Index as reported by Natural Gas Intelligence at El Paso nonbonded per MMBtu transported beginning the first day that the right-of-way terminates and ending with the first day of a new right-of-way agreement or such other agreement as may be approved by the Pueblo to authorize the use of a pipeline; and
- (3) Up to one thousand dollars (\$1,000.00) per day, as determined by the Governor, for all other trespasses either through use of expired rights-of-way, easements or leases that are in trespass or for any other trespass on Pueblo Lands.

B. These civil trespass penalties are in addition to any other penalties which may be imposed by Pueblo or federal law and are meant to compensate the Pueblo solely for the act of trespass and not for any other violation of law or contract.

C. All payment trespass penalties shall be paid to the Pueblo Court.

Section 12-6-8. Seizure and forfeiture of property in trespass.

Pueblo Law Enforcement Officers are authorized to seize and impound any property of the trespasser found on the Reservation in trespass as security for payment of the trespass

penalty. The property may be released to the trespasser if the trespasser immediately pays to the Pueblo Court the trespass penalty or provides some other security to the Pueblo Court to ensure payment of any penalties. If assessed penalties are not paid within twenty (20) calendar days of assessment, the court may order the police to conduct a commercially reasonable sale of the property. After payment of assessed costs and damages and the costs of the sale are deducted, any excess funds shall be refunded to the trespasser.

Section 12-6-9. Interest on penalties.

Interest on any delinquent payment of penalties shall accrue at the rate of fifteen (15) percent a year, computed on a daily basis from the first day following the day on which assessment is due until the date the assessment is paid.

Section 12-6-10. Appeals.

Any person to whom a notice of trespass or assessment is issued may appeal to the Pueblo Court by filing a notice of appeal with the Pueblo Court within fifteen (15) calendar days of the date a notice of trespass or assessment is received. The notice of appeal shall state the facts and the basis for the appeal. The decision of the Pueblo Court may be appealed to the Court of Appeals.

Section 12-6-11. No waiver of sovereign immunity.

The Pueblo does not waive the sovereign immunity of the Pueblo or any Pueblo officials, employees or agents, from suit in any court of any jurisdiction for any claims or appeal made under this chapter. Any action taken to enforce this chapter shall not constitute a waiver of sovereign immunity or consent to be sued or counter-sued without an express written waiver of sovereign immunity approved by resolution of the Pueblo Council.

Section 12-6-12. Effective date retroactively.

This chapter shall be effective on August 7, 2007. The civil penalties provided for in this chapter shall apply to all penalties assessed after the date of enactment of this chapter. The penalty shall apply from the date of trespass even if that date precedes the effective date of this chapter. The penalty is one means of valuing the use of Pueblo Lands and is intended to apply retroactively to all unauthorized uses of Pueblo Land.

Section 12-6-13. Chapter not applicable to traditional use and land assignments.

This chapter is not applicable to use of Pueblo Lands by members, which use is governed by title II, chapter 2, Mayordomos and villages, and other Pueblo laws and traditions.

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TITLE XII HISTORY

Title XII, Chapter 2, Traffic, was enacted by Resolution on August 7, 1968. Ordinance No. 100-00 "Child Passenger Restraint, Safety Belt Use and Riding in Bed of a Pickup Truck" amended the Traffic Code on December 12, 2000. The Traffic Code and Ordinance No. 100-00 were superceded and replaced by Ordinance 100-06 on January 24, 2006, and was adopted by Reservation No. 03-06 and made effective March 1, 2006.

August 7, 1968 Resolution (original Traffic Code) reads as follows:

WHEREAS, Article IV, Section 1(e)(2) of the Amended Constitution of the Pueblo of Laguna approved November 10, 1958, provides that the Council may enact ordinances providing for the maintenance of law and order;

NOW, THEREFORE, BE IT RESOLVED that the Council of the Pueblo of Laguna hereby adopts the following: [TEXT OF TRAFFIC CODE]

Ordinance No. 100-00 reads as follows:

WHEREAS, the Pueblo of Laguna is an Indian Tribe recognized by the United States with a constitutional form of government exercising all inherent governmental powers and Tribal sovereignty; and

WHEREAS, the Laguna Tribal Council has the recognized authority and responsibility, via the Tribal Constitution, to establish laws, rules and regulations for the orderly resolution of disputes and the punishment of certain offenses; and

WHEREAS, the Laguna Tribal Council has the authority and responsibility to enact certain laws regulating the conduct of members and nonmembers alike; and

WHEREAS, there currently exists no laws regulating the conduct of persons who operate motor vehicles designed to transport passengers under a certain age, nor any laws requiring the operator of a motor vehicle to have himself and any passengers properly fastened in a seat belt or other restraining device while the vehicle is in motion, and no laws prohibiting the transporting of persons under a certain age in the bed of a pickup truck; and

WHEREAS, the exercise of the Tribe's inherent governmental power and Tribal sovereignty would be for the Pueblo of Laguna to promulgate and implement a Child Passenger Restraint offense, a Safety Belt Use offense, and a offense Prohibiting the transporting of individuals under a certain age in the Bed of a Pickup Truck.

NOW, THEREFORE, BE IT RESOLVED by the Laguna Tribal Council that the Pueblo of Laguna Child Passenger Restraint, Riding In The Bed Of A Pickup Truck Prohibited, and the Safety Belt Use amendments to the current traffic offense section of the Traffic Code are hereby adopted with the same being incorporated herein and made a part of this Ordinance by reference.

BE IT FURTHER RESOLVED that the effective date of the Pueblo of Laguna Child Passenger Restraint, Riding In The Bed Of A Pickup Truck Prohibited, and the Safety Belt Use amendments to the Traffic Code shall be January 1, 2001.

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Resolution No. 03-05 reads as follows:

WHEREAS, the Laguna Pueblo Council ("Council") is the governing body of the Pueblo of Laguna ("Pueblo") and is empowered under the Revised Constitution of the Pueblo to establish and enforce ordinances governing the conduct and civil relations of residents of the Pueblo and providing for the maintenance of the law and order and the administration of justice within the Lands of the Pueblo; and

WHEREAS, the Council adopted a Traffic Code in 1968 (the "1968 Code"), but has not made a comprehensive review and revision of the 1968 Code since it was adopted; and

WHEREAS, the 1968 Code made traffic infractions criminal in nature and, therefore, enforceable only against Indian individuals; and

WHEREAS, the Council finds that traffic within Pueblo Lands has increased to such a degree since the 1968 Code was adopted that the 1968 Code no longer meets the needs of the Pueblo; and

WHEREAS, with the exception of certain serious criminal violations, the Council wants to make its Traffic Code enforceable against all those who travel within Pueblo Lands; and

WHEREAS, the Council has reviewed the Revised Traffic code, which is attached hereto and incorporated herein by reference, and finds that it is in the best interest of the Pueblo to adopt the Revised Traffic Code. [TEXT OF ORDINANCE 100-06]

Title XII, Chapter 2, Schedule of Civil Assessments, was enacted by Resolution No. 03-06 on January 24, 2006.

Resolution No. 03-06 reads as follows:

WHEREAS, the Laguna Pueblo Council ("Council") is the governing body of the Pueblo of Laguna ("Pueblo") and is empowered under the Revised Constitution of the Pueblo to establish and enforce ordinances governing the conduct and civil relations of residents of the Pueblo and providing for the maintenance of the law and order and the administration of justice within the Lands of the Pueblo; and

WHEREAS, the Council adopted a Traffic Code in 1968 (the "1968 Code"), but has not made a comprehensive review and revision of the 1968 Code since it was adopted; and

WHEREAS, the 1968 Code made traffic infractions criminal in nature and, therefore, enforceable only against Indian individuals; and

WHEREAS, the Council finds that traffic within Pueblo Lands has increased to such a degree since the 1968 Code was adopted that the 1968 Code no longer meets the needs of the Pueblo; and

WHEREAS, with the exception of certain serious criminal violations, the Council wants to make its Traffic Code enforceable against all those who travel within Pueblo Lands; and

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WHEREAS, the Council has reviewed the Revised Traffic Code, which is attached hereto and incorporated herein by reference, and finds that it is in the best interest of the Pueblo to adopt the Revised Traffic Code.

NOW, THEREFORE, BE IT RESOLVED that the Revised Traffic Code is adopted as the law of the Pueblo and shall become effective on March 1, 2006,

BE IT FURTHER RESOLVED that the Schedule of Civil Assessments related to the Revised Traffic Code is hereby approved and shall become effective on the effective date of the revised Traffic Code. [TEXT OF ORDINANCE]

Title XII, Chapter 3, Liquor Control, was enacted by Ordinance No. 300-86 on August 26, 1986, approved by the Secretary of the Interior on April 14, 1987, and was amended by Ordinance No. 300-99 and Resolution No. 49-99, enacted and adopted on August 11, 1999.

Ordinance 300-86 reads as follows:

WHEREAS, the Pueblo Council of the Pueblo of Laguna is the duly constituted body of the Pueblo of Laguna by the authority of the Constitution of the Pueblo of Laguna adopted by the qualified voters of the Pueblo on February 15, 1984 and approved on June 6, 1984 by the Acting Assistant Secretary-Indian Affairs, Department of the Interior; and

WHEREAS, pursuant to Article IV, Sec. 2(g), the Pueblo Council is vested with the specific power to regulate trade ... among members and other persons or entities residing or engaging in activity on the Lands of the Pueblo subject to Article IX of the Constitution and pursuant to Sec. 2(f), the Pueblo Council is vested with the specific power to levy and collect taxes ... from any member or person or entity residing or engaging in an activity on the Lands of the Pueblo, and to raise revenue for the needs of the Pueblo; and

WHEREAS, the introduction, possession and sale of liquor on the Laguna Reservation since time immemorial have been clearly recognized as matters of special concern to the Pueblo of Laguna and its members and to the United States; and

WHEREAS, federal law currently permits the introduction of liquor into Indian Country (18 U.S.C. § 1154) leaving Indian Tribes the decision regarding when and to what extent liquor transactions shall be permitted (18 U.S.C. § 1161); and

WHEREAS, to date the Pueblo Council of the Pueblo of Laguna has not authorized the introduction, possession or sale of liquor within the Reservation boundaries; however, current circumstances make a complete ban on liquor within the Laguna Reservation ineffective and unrealistic, thereby necessitating strict Tribal regulations and control over liquor distribution; and

WHEREAS, the enactment of an ordinance governing liquor sales on the Reservation providing for exclusive wholesale purchase and retail sale by the Pueblo will increase the ability of the Pueblo government to control Reservation liquor distribution and possession, and at the same time will provide an important source of revenue for the continued operation of the Pueblo Government and delivery of government services.

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NOW, THEREFORE, BE IT ORDAINED by the Pueblo Council of the Pueblo of Laguna that in order to provide for increased Pueblo control over liquor distribution and possession within the boundaries of the Laguna Reservation and to provide for additional revenue, this Liquor Control Ordinance is hereby adopted. [TEXT OF ORDINANCE]

Title XII, Chapter 3, Liquor Control Rules and Regulations, was enacted by Resolution No. 39-05, adopted on October 11, 2005, implementing Laguna Liquor Control Ordinance No. 300-86, as amended by Ordinance No. 300-99.

Resolution No. 39-05 reads as follows:

WHEREAS, pursuant to the Laguna Constitution, the Tribal Council is the Governing Body of the Pueblo of Laguna; and

WHEREAS, Section 14 of Laguna Liquor Control Ordinance No. 300-86, as amended, authorizes the Tribal Council to adopt and enforce rules and regulations to implement the ordinance; and

WHEREAS, the Tribal Council desires to delegate exclusive authority to the Tribal Secretary to administer and enforce the Liquor Control Ordinance; and

WHEREAS, the Tribal Council finds that it is in the best interest of the Pueblo to adopt rules and regulations implementing the Liquor Control Ordinance, including the licensing of New Mexico wholesalers to import, sell, and distribute liquor to licensed retailers within the Laguna Reservation.

NOW, THEREFORE, BE IT RESOLVED, by the Tribal Council of the Pueblo that it hereby:

1. Adopts rules and regulations implementing the Liquor Control Ordinance, which are attached hereto and incorporated herein by reference as Exhibit A.
2. Delegates exclusive authority to the Tribal Secretary to administer and enforce the Liquor Control Ordinance, as amended. [TEXT OF RULES AND REGULATIONS]

Title XII, Chapter 3, Licensing of Alcoholic Beverage Wholesalers, was enacted by Resolution No. 16-05 on April 12, 2005.

Resolution No. 16-05 reads as follows:

WHEREAS, pursuant to Article IV, Sec. 2(g) and Sec. 2(f) of the Constitution of the Pueblo of Laguna, the Pueblo of Laguna Tribal Council enacted its Liquor Control Ordinance, No. 300-86, as amended by Ordinance No. 300-99, on August 26, 1986. The original Ordinance and the amendment were published in the Federal Register. 52 Fed. Reg. 15,768 (Apr. 30, 1987); 65 Fed. Reg. 35121 (June 2, 2000); and

WHEREAS, pursuant to the Ordinance, the Pueblo has authorized Laguna Development Corporation to sell liquor at various locations on the Laguna Reservation, including casino and noncasino locations; and

WHEREAS, federal law, 18 U.S.C. § 1161, states that a sale of liquor in Indian Country is not unlawful if the sale "is in conformity both with the laws of the State in which such act or

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transaction occurs and with an ordinance duly adopted by the Tribe having jurisdiction over such area of Indian Country, certified by the Secretary of the Interior, and published in the Federal Register"; and

WHEREAS, the Pueblo restates its sovereign authority to regulate, through licensing and other means, liquor distributors who sell alcoholic beverages to the Pueblo or to an entity authorized to purchase and resell alcoholic beverages on the Laguna Reservation Federal case law has recognized this authority. *United States v. Mazurie*, 419 U.S. 544 (1975); see also *Atkinson Trading Co., Inc. v. Shirley*, 532 U.S. 645 (2001); *Montana v. United States*, 450 U.S. 522 (1983); and

WHEREAS, the New Mexico Liquor Control Act, Section 60-3A-5, currently reads in relevant part, that sales of liquor on Indian Lands are lawful "if the alcoholic beverages are purchased from New Mexico wholesalers and if the sale, service, possession or public consumption of alcoholic beverages is authorized by the laws of the Indian Nation, Tribe or Pueblo having jurisdiction over those lands and is consistent with the ordinance of the Indian Nation, Tribe or Pueblo certified by the Secretary of the Interior and published in the federal register according to the laws of the United States"; and

WHEREAS, Laguna Development Corporation has purchased liquor in significant volumes from a number of New Mexico alcoholic beverage wholesale distributors ("alcohol distributors"); and

WHEREAS, the volume of wholesale sales, especially given the volume of sales to the Pueblo's gaming facilities, raises concerns regarding public health and safety and the financial interests of the Pueblo; and

WHEREAS, wholesale sales of liquor are "sales" within the definition of the Liquor Control Ordinance, and alcohol wholesalers "introduce" alcoholic beverages onto the Laguna Reservation; there, wholesale sales of liquor are subject to the general provisions of the Liquor Control Ordinance; and

WHEREAS, pursuant to Section 14 of the Liquor Control Ordinance, the Council has the authority to adopt and enforce "rules and regulations to implement this ordinance and to further the purposes thereof"; and

WHEREAS, the Tribal Council desires to ensure that alcohol distributors are properly licensed in other relevant jurisdictions and, when necessary, to have its own background investigation conducted to ensure the propriety of each alcohol distributor conducting significant business on the Reservation; and

WHEREAS, the Council has not previously exercised its authority under the Liquor Control Ordinance to license or actively regulate alcohol distributors on the Reservation but has now concluded that the volume of such sales warrants licensing; and

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WHEREAS, the Pueblo enacted its Gaming Control Ordinance, No. 100-95, on April 12, 1995, which created the Pueblo of Laguna Gaming Control Board as an instrumentality of the Pueblo government charged with insuring the integrity of gaming activities on the Laguna Reservation; and

WHEREAS, Section 5(a)(7) of the Gaming Control Ordinance states that the Gaming Control "Board may license such other persons as it deems necessary to carry out the purposes of this Ordinance". Pursuant to that authority, the Board adopted regulations stating that "[a] Nongaming Vendor license is required for any person providing nongaming services in excess of ten thousand dollars (\$10,000.00) annually to the Pueblo or Gaming Enterprise". Gaming Regulations (Nov. 1, 1999), Rule 1004(f); and

WHEREAS, four (4) alcohol distributors had sales of more than \$10,000 to the Pueblo's casinos in 2004, but each has refused to pay the license fee or complete the licensing application required by the Gaming Control Board; and

WHEREAS, in light of the Council's decision that alcohol distributors are to be licensed by the Council so that all on-Reservation sales will be made pursuant to a license, the Council concludes that it is not necessary for alcohol distributors to obtain both a wholesale liquor license from the Council and a nongaming Vendor license from the Gaming Control Board and therefore that the Gaming Control Board should exercise its discretion under the Gaming Control Ordinance to not require licenses from alcohol distributors licensed by the Council.

NOW, THEREFORE, BE IT RESOLVED, by the Tribal Council of the Pueblo of Laguna, that the Liquor Control Ordinance, as amended, is intended to provide for the regulation of both wholesalers and retailers of alcoholic beverages on the Laguna Reservation; and

BE IT FURTHER RESOLVED that the Governor and Staff in conjunction with the Gaming Control Board and the Pueblo's attorneys as appropriate, shall develop proposed regulations governing licensing of alcohol distributors and submit them to Council for approval pursuant to Section 14 of the Liquor Control Ordinance; and

BE IT FURTHER RESOLVED that no later than June 15/July 1, 2005, any alcohol distributor selling within the Pueblo's jurisdiction must have submitted an application pursuant to the attached regulations. A distributor which submits a facially complete application, along with the required fee, by that date shall be allowed to continue selling within the Pueblo's jurisdiction until the application is acted upon.

Title XII, Chapter 4, Exclusion or Removal, was enacted by Ordinance No. 200-90 on June 19, 1990.

Ordinance No. 200-90 reads as follows:

At a duly called meeting of the Pueblo of Laguna Council held on the 19th day of June, 1990, the following ordinance was adopted. [TEXT OF ORDINANCE]

Title XII, Chapter 5, Good Samaritan, was enacted by Ordinance No. 01-79 on September 24, 1979.

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Ordinance No. 01-79 reads as follows:

WHEREAS, the Laguna Ambulance Service and individual Pueblo members from time to time are confronted by emergency situations in which a Pueblo member or non-Pueblo members requires emergency care; and

WHEREAS, such emergency situation has occurred and may occur either within the Pueblo boundaries or outside the exterior boundaries of the Pueblo; and

WHEREAS, the Pueblo desires to assist Pueblo members and non-Pueblo individuals in need of such emergency care; and

WHEREAS, the Pueblo does not wish the Laguna Ambulance Service, its attendants, or individual Pueblo members to hesitate in offering and providing such emergency care to Pueblo members or non-Pueblo individuals when reasonably helpful or necessary because of the risk of incurring liability.

NOW, THEREFORE, BE IT ORDAINED, that the Pueblo of Laguna hereby adopts the following statement of no liability for rendering emergency aid which shall be referred to as the Pueblo of Laguna Good Samaritan Act: [TEXT OF ORDINANCE]

Title XII, Chapter 6, Trespass, was enacted by Resolution No. 57-92 and Ordinance No. 200-92, adopted on September 29, 1992. Section (1.8) Civil Penalties of the Law and Order Code was amended by Resolution No. 72-92 on December 1, 1992. Ordinance No. 200-92 was repealed and superceded by Resolution No. 32-07, adopting Amended Trespass Ordinance No. 200-92 on August 7, 2007.

Resolution No. 57-92 reads as follows:

WHEREAS, the Constitution of the Pueblo of Laguna provides that the Pueblo Council is the Governing Body of the Pueblo and sets forth the powers of the Pueblo Council exercised in this Reservation; and

WHEREAS, the Constitution authorizes the Pueblo Council to protect and regulate the use of Tribal Land; and

WHEREAS, various rights-of-way, easements and leases belonging to persons doing business on the Reservation have expired and are currently in trespass; and

WHEREAS, other rights-of-way, easements and leases will expire in the future; and

WHEREAS, the Pueblo Council finds that it is in the best interest of the Pueblo of Laguna to impose a penalty, for the purposes of compensating the Pueblo for the unlawful and unauthorized use of Tribal Lands, on any person operating on or using property located on an expired right-of-way, easement, or lease within the Laguna Indian Reservation or who is otherwise trespassing on Tribal Land.

NOW, THEREFORE, BE IT RESOLVED that the Pueblo Council hereby enacts a Trespass Ordinance, attached hereto as Exhibit A, which imposes a penalty on any person operating on

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or using property located on an expired right-of-way, easement or lease located within the Laguna Indian Reservation or who is otherwise in trespass on Tribal Lands. [TEXT OF ORDINANCE NO. 200-92]

Resolution No. 72-92 reads as follows:

WHEREAS, the Pueblo Council enacted the Pueblo of Laguna Trespass Ordinance No.200-92 to impose a penalty for the unlawful and unauthorized use of Tribal Lands; and

WHEREAS, the Pueblo Council finds that it is in the best interest of the Pueblo to amend Section 8 of said Ordinance to increase the penalty for the unlawful and unauthorized use of Tribal Lands for the purpose of ensuring compliance with said Ordinance.

NOW, THEREFORE, BE IT ORDAINED that the Pueblo Council hereby amends Ordinance No. 200-92 to read as follows: [TEXT OF ORDINANCE]

BE IT FURTHER RESOLVED that the Ordinance No. 200-92 shall otherwise remain unchanged and in full force and effect.

Resolution No. 32-07 reads as follows:

WHEREAS, the Pueblo of Laguna ("Pueblo") is a federally recognized Indian Tribe with a constitution and all the inherent governmental powers of a sovereign; and

WHEREAS, pursuant to Article IV of the Constitution, the Tribal Council is authorized to exercise the inherent powers of the Pueblo; and

WHEREAS, the Pueblo Council has the obligation to protect and regulate the use of Tribal Land; and

WHEREAS, the unauthorized use of Tribal Land threatens the health, safety and welfare of the Pueblo and its members because such unauthorized use is not monitored to ensure the use does not cause any damage to the environment, cultural, traditional and historic uses of the land; it deprives the Pueblo of the benefits of the land; and interferes with alternative economic uses of the land; and

WHEREAS, in 1992, the Pueblo of Laguna adopted a Trespass Ordinance, No. 200-92, which was amended by Reservation No. 72-92 that same year; and

WHEREAS, the Trespass Ordinance needs updating.

NOW THEREFORE BE IT RESOLVED that the Pueblo of Laguna Tribal Council hereby adopts the Trespass Ordinance attached to this Reservation.

BE IT FURTHER RESOLVED that the Governor is directed to work with the appropriate personnel to adopt a schedule for the trespass penalties set forth in Section 7(A)(iii) within thirty (30) days.

BE IT FURTHER RESOLVED, that the Ordinance No. 200-92 as amended by resolution No. 72-92 is hereby repealed and superseded by the Trespass Ordinance adopted on this date. [TEXT OF ORDINANCE]